

In The Matter Of:

*Edgewood High School of the Sacred Heart, Inc. v.
City of Madison, Wisconsin, et al.*

*Video Deposition of Michael G. Elliott
May 10, 2022*

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Min-U-Script® with Word Index*

<p style="text-align: center;">UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WISCONSIN</p> <hr/> <p>EDGEWOOD HIGH SCHOOL OF THE SACRED HEART, INC.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">-vs- Case No. 21-cv-118</p> <p>CITY OF MADISON, WISCONSIN, et al.,</p> <p style="text-align: center;">Defendants.</p> <hr/> <p style="text-align: center;">Video deposition of MICHAEL G. ELLIOTT,</p> <p>taken at the instance of the Defendants, under and</p> <p>pursuant to Sections 804.05 and 805.07 of the Wisconsin</p> <p>Statutes, before Peggy S. Christensen, RPR, CRR, CRC,</p> <p>a Notary Public in and for the State of Wisconsin,</p> <p>at Boardman & Clark LLP, One South Pinckney Street,</p> <p>Suite 401, Madison, Wisconsin, on May 10, 2022,</p> <p>commencing at 9:00 a.m. and concluding at 5:50 p.m.</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">I N D E X</p> <p>1 Examination: Page</p> <p>2 By Ms. Zylstra 9</p> <p>3</p> <p>4</p> <p>5</p> <p>6 Exhibits Identified: Page</p> <p>7 48 Article - "Updated comprehensive plan 24</p> <p>8 expected by spring election, Council votes</p> <p>9 4-3 for timeline despite requests on</p> <p>potential projects," Fitchburg Star,</p> <p>8/9/2019</p> <p>10 49 Dominican Sisters of Sinsinawa website 39</p> <p>11 printout</p> <p>12 50 Independent Schools Association of the 40</p> <p>13 Central States Accreditation Report for</p> <p>Edgewood High School of The Sacred Heart,</p> <p>October 11-14, 2015</p> <p>14 51 Minutes - Dudgeon-Monroe Neighborhood 54</p> <p>15 Association, Inc., Council Meeting</p> <p>August 14, 1996</p> <p>16 52 City Edgewood Campus Master Plan and 65</p> <p>17 city approvals</p> <p>18 53 January 2014 Email string, Re: VNA meeting 71</p> <p>19 54 12/5/2013 Email from Maggie Balistreri- 93</p> <p>Clarke, with attached DRAFT - Edgewood</p> <p>20 Campus Master Plan 2013</p> <p>21 55 10/10/2013 Email from Maggie Balistreri- 100</p> <p>22 Clarke, Subject: Draft architectural</p> <p>23 review process Oct. 10, 2013</p> <p>24 56 October 2018 email forwarding emails 109</p> <p>25 between Jim Hartlieb and Thomas Tierney</p> <p>26 57 Article - "Edgewood launches new \$1.5M 115</p> <p>upgrade," Wisconsin State Journal,</p> <p>6/15/2015</p>
<p style="text-align: right;">Page 2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1</p> <p>2</p> <p>3 GODFREY & KAHN, S.C., by</p> <p>4 MR. JONATHAN INGRISANO,</p> <p>One East Main Street, Suite 500,</p> <p>5 Madison, Wisconsin 53703,</p> <p>6 and</p> <p>7 DALTON & TOMICH, PLC, by</p> <p>8 NOEL W. STERETT,</p> <p>401 West State Street,</p> <p>9 Rockford, Illinois 61101,</p> <p>appeared on behalf of the Plaintiff.</p> <p>10</p> <p>11 BOARDMAN & CLARK LLP, by</p> <p>12 MS. SARAH A. ZYLSTRA and MR. TANNER G. JEAN-LOUIS,</p> <p>One South Pinckney Street, Suite 410,</p> <p>13 Madison, Wisconsin 53701,</p> <p>appeared on behalf of the Defendants.</p> <p>14</p> <p>15 Also present: Jon Hansen, CLVS, Videographer, and</p> <p>16 Matt Tucker, City of Madison</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 58 12/4/2015 Application for Alteration to 133</p> <p>2 Edgewood College Master Plan, and city</p> <p>approval</p> <p>3 59 5/10/2016 Email with attached Edgewood 138</p> <p>4 Neighborhood Liaison Committee Meeting</p> <p>Agenda for May 10, 2016, meeting</p> <p>5 60 Edgewood High School Athletic Complex 139</p> <p>6 Agreement flyer</p> <p>7 61 July 2018 Email string between Michael 142</p> <p>8 Elliott, Tim Parks, Matt Tucker, and</p> <p>Sara Eskrich, Subject: Resignation</p> <p>9 62 Cover letter to Heather Stouder from 149</p> <p>10 Michael Elliott, with attached Land Use</p> <p>Application, Goodman Athletic Complex</p> <p>Master Plan Amendment</p> <p>11 63 12/3/2019 Letter to the Plan Commission 152</p> <p>12 from Edgewood High School</p> <p>13 64 10/26/2018 Email from Matthew Tucker 156</p> <p>14 to Brian Munson and Michael Elliott,</p> <p>Subject: Edgewood High School Athletic</p> <p>Field Use and the Adopted Master Plan</p> <p>15 65 11/14/2018 Letter to Zoning Administrator 161</p> <p>16 Matt Tucker from Katherine R. Rist</p> <p>17 66 11/20/2018 Letter to Katherine Rist 163</p> <p>18 from Matt Tucker</p> <p>19 67 1/4/2019 Ambient Noise Measurements and 166</p> <p>20 Grandstand Noise Simulation Model for</p> <p>Edgewood High School Goodman Athletic</p> <p>Complex, prepared by TALASKE and TLC</p> <p>Engineering</p> <p>21 68 December 2018 and January 2019 Email 168</p> <p>22 string, Re: EHS 2018 athletic field</p> <p>schedule, with attached usage summary 2018</p> <p>23 69 2019 Assessment of Neighborhood Noise 169</p> <p>24 Impact, Edgewood High School of The Sacred</p> <p>25 Heart Athletic Stadium Seating & Concession</p> <p>Stand Redevelopment, by Wise Associates</p>

Page 5				Page 7			
1	70	3/12/2018 Letter to Attorney John Strange from Attorney Nathan Wautier	178	1	89	5/13/2020 Letter to Michael Elliott from Timothy Parks, Re: Consideration of a conditional use on a Campus-Institutional District-zoned property without a campus master plan to allow for the establishment, improvement, or modification of a secondary use occurring outside of an enclosed building, to allow installation of lights for the Goodman Athletic Complex at Edgewood High School, 2219 Monroe Street (ID 600001)	254
2	71	3/21/2019 Letter to Attorney Nathan Wautier from Attorney John Strange	180	2			
3				3			
4	72	3/7/2017 Email exchange between Mark Landgraf and Michael Elliott, Subject: Matt Tucker	186	4			
5				5			
6	73	11/5/2014 Email from Michael Elliott to Maggie Balistreri-Clarke, Subject: Resurfacing the football field, forwarding October 2014 emails with Matt Tucker and Tim Parks	194	6			
7				7	90	5/21/2020 Letter to Secretary of the Plan Commission from Michael Elliott, Re: Appeal - Conditional Use for Goodman Athletic Complex at Edgewood High School, 2219 Monroe Street (ID 600001)	255
8				8			
9	74	5/31/2019 Letter to the City of Madison Zoning Board of Appeals, from Matthew Lee, with attached Appeal Application and Edgewood High School of The Sacred Heart, Inc.'s Statement of Grounds for the Appeal of the City of Madison's Official Notices Dated 4/1/2019 and 5/15/2019 for Consideration at the 6/20/2019 Meeting of the Zoning Board of Appeals	196	9			
10				10	91	1/15/2021 Email from P. Anthony Brinkman to Christopher Zwettler, Subject: Time to Rally!	256
11				11			
12				12	92	2/25/2019 Email from Jen Trost, forwarding 2/22/2019 Email from Susan Elsa Connors, Subject: Current status of Goodman Athletic Complex improvements	258
13				13			
14	75	EHS Collaborative Workgroup Meeting 4/30/2019, Unapproved Draft Minutes	197	14			
15				15	93	9/29/2021 Email from Michael Elliott to Tag Evers, DMNA President, Sarah Bahaudin, and others, Subject: Conditional use application	260
16	76	Transcript of Proceedings In RE: Edgewood High School Appeal, July 11, 2019	202	16			
17	77	8/14/2019 Email from Jon Standridge to Michael Elliott, and others, Subject: Forwarding 8/14/2019 Email, Greenbush Neighborhood Council opposed termination of Edgewood Campus Master Plan	208	17	94	Plaintiff Edgewood High School of The Sacred Heart, Inc.'s Responses to Defendants' First Set of Interrogatories	270
18				18			
19				19			
20	78	9/25/2019 Email string between Katie Boyce, Michael Elliott, Subject: Master Plan Amendment Process, with forwarded 9/24/2019 Email from Christie Baumel	223	20		(The original exhibits were attached to the original transcript and PDFs were provided to counsel)	
21				21			
22				22		(Exhibit Nos. 6, 7, 9, 11, 12, 22, 24, and 25 referred to herein were marked in previous depositions and are attached thereto)	
23	79	9/5/2019 Email from Office, President's, to Carol Anzelmo, Subject: Athletic Complex Update 9.5.19	226	23			
24				24			
25				25		(The original transcript was filed with Attorney Sarah A. Zylstra)	

Page 6				Page 8			
1	80	9/11 and 9/12/2019 Email string between Steven Krantz and Michael Elliott, Subject: Edgewood Athletic Field	230	1	MR. HANSEN: Good morning. We are now on the record. My name is Jon Hansen, CLVS. I'm the videographer today with For the Record, Madison, Wisconsin. Today's date is May 10, 2022. The time is 9:00. This deposition is being held in the matter of Edgewood High School of Sacred Heart, Inc., versus City of Madison, Wisconsin, et al., United States District Court for the Western District of Wisconsin, Case No. 21-cv-00118. The deponent is Michael G. Elliott. At this time if counsel could state their appearances for the record, after which our reporter will swear in the witness and we can proceed. MR. INGRISANO: Jonathan Ingrisano of Godfrey & Kahn on behalf of the plaintiff, Edgewood High School of The Sacred Heart. MR. STERETT: Noel Sterett on behalf of plaintiff Edgewood High School of The Sacred Heart. MS. ZYLSTRA: Sarah Zylstra and Tanner Jean-Louis on behalf of the defendants. Also appearing is Matthew Tucker		
2				2			
3	81	10/10/2019 Email exchange between Michael Elliott and Heather Stouder, Subject: Referral of master plan repeal vote	235	3			
4				4			
5	82	10/24/2019 Email from Michael Elliott to Heather Stouder, Subject: Refer	235	5			
6				6			
7	83	10/28/2019 Memo to the Plan Commission from Timothy Parks, Subject: ID 56839 - Repealing Section 28.022-00117 of the Madison General Ordinances adopting the Campus Master Plan for Edgewood College, Edgewood High School and Edgewood Campus School	236	7			
8				8			
9				9			
10				10			
11	84	10/14/2019 Email from John Kneer to Michael Elliott, Subject Permit - zoning denial, with attached Site Plan Verification, Lighting Edgewood Activity Field	238	11			
12				12			
13				13			
14	85	11/5/2019 Memo to the Members of the City of Madison Common Council and the Plan Commission, from the Presidents of Edgewood College, Edgewood High School of The Sacred Heart, and Edgewood Campus Grade School, RE: Joint Position Statement Supporting Repeal of the Edgewood Master Plan	241	14			
15				15			
16				16			
17				17			
18	86	1/8/2020 Email from Office, President's, to Carol Anzelmo, Subject: Response to last night's vote	247	18			
19				19			
20	87	City of Madison Master file - File number 600001, Conditional Use - 2219 Monroe Street (EHS stadium lights)	249	20			
21				21			
22	88	5/4/2020 Email from Office, President's, to Carol Anzelmo, Subject: Friendly reminder to contact the City	252	22			
23				23			
24				24			
25				25			

Page 9

1 on behalf of the city.

2

3 MICHAEL G. ELLIOTT, called as a

4 witness, being first duly sworn, testified on

5 oath as follows:

6

7 EXAMINATION

8 By Ms. Zylstra:

9 Q For the record, could you state your name, please.

10 A Michael Gerard Elliott.

11 Q And your residential address, sir?

12 A 2615 Smoky Trail, Fitchburg, Wisconsin 53711.

13 Q And, sir, have you ever given a deposition or

14 testified at trial before?

15 A I've never given a deposition but have done a

16 trial appearance or whatever.

17 Q Okay. And was the -- what was the trial just

18 generally about?

19 A A construction matter.

20 Q And was that personal for you as opposed to

21 business related?

22 A Yes.

23 Q Okay. I'm sure your counsel has given you some

24 overview of kind of the rules of having a good

25 record for a deposition, but just in case, I'll

Page 10

1 go over a few. Okay?

2 A Okay.

3 Q This is a question-and-answer session where I get

4 to ask some questions to see what you know. All

5 of your answers must be verbal because we have a

6 court reporter to my right trying to take down

7 both my questions and your answers.

8 It would be very helpful to her if you could

9 wait until I completely finish my question before

10 you start answering, and I'll do my best to wait

11 until you've finished answering before I ask my

12 next question. Okay?

13 A Okay.

14 Q I am sure at some point we're going to

15 accidentally talk over each other, and if that

16 happens, don't worry, we'll stop and try and

17 figure it out for the court reporter. Okay?

18 A All right.

19 Q I'm sure I'm going to ask some questions today

20 that are either confusing or you're thinking about

21 the last question and you just didn't hear it.

22 It's not a problem for any question that you need

23 clarified, just ask me to clarify it. Okay? If

24 you want a question heard again, you can ask for

25 the question to be repeated. Okay?

Page 11

1 A Okay.

2 Q Otherwise, if you don't ask for a clarification or

3 a question to be repeated, I'm going to assume you

4 understood my question and your answer was trying

5 to respond to it. Okay?

6 A Okay.

7 Q And if you need a break at any time during today,

8 just ask for a break and we can take one. Okay?

9 A Sounds good.

10 Q All right. Are you under any kind of medication

11 or is there any reason that you would have trouble

12 giving complete and truthful testimony today?

13 A No.

14 Q Okay. Can you give me a brief description of your

15 educational background?

16 A I have a degree from Upper Iowa University in

17 business administration and marketing, and I went

18 to Edgewood High School and Queen of Peace grade

19 school before that.

20 Q That suggests to me, sir, that you're a Madison

21 resident.

22 A Born and raised in Madison, yes.

23 Q And when did you get your degree from Upper Iowa?

24 A I can't tell you the exact year. It's been a

25 while ago. I went back to school after working a

Page 12

1 few years to get my four-year degree. Prior to

2 that I had been at MATC for a two-year marketing

3 and sales degree.

4 I'm not exactly sure what year I graduated

5 from the college.

6 Q Can you give me a rough estimate? Was it in the

7 mid-Eighties? Was it in the Nineties?

8 A It was in the Nineties.

9 Q Okay. And would that have been both for MATC and

10 Upper Iowa?

11 A No. MATC was right after high school, so '79 I

12 graduated from there.

13 Q Okay. Are you currently employed, sir?

14 A I am. I'm the president of Edgewood High School.

15 Q Okay. And for someone who is not in education,

16 can you kind of give me just a real thumbnail

17 sketch of what your duties are as president?

18 A I run the business side of the school and raise

19 the money.

20 Q Okay. And who, if anyone at the school, is

21 responsible for the curriculum, the teaching,

22 overseeing all of that?

23 A That would be the principal.

24 Q And who is the principal at Edgewood?

25 A The principal's name is -- I'm sorry. I'm a

Page 13

1 little nervous.
2 Q That's okay.
3 A He just started. Jerry Zander.
4 Q Thank you. Everyone has senior moments.
5 A Well, I'm a senior.
6 Q Okay. How long have you been the president of
7 Edgewood?
8 A I have been a little over nine years.
9 Q Okay. So roughly in 2013?
10 A Yes. March.
11 Q Okay. Did you hold any position at Edgewood prior
12 to March of 2013?
13 A March of 2013 I was actually hired. I took over
14 as president July 1 of '13.
15 Q Okay.
16 A It was kind of a transitional period between the
17 old president and myself.
18 Q Prior to being hired by Edgewood in March of 2013,
19 what was your employment?
20 A I had been in the printing industry 23 years at
21 Straus Printing and then 11 years at Suttle-
22 Straus Printing.
23 Q Okay. Why did you leave the printing industry to
24 become president of Edgewood?
25 A I was going to become a printing consultant in the

Page 14

1 industry, and the nuns approached me asking me if
2 I wouldn't consider taking over the role of
3 president. I was an alum of Edgewood and thought
4 that that might be a good way to end my career.
5 Q With respect to being president of Edgewood,
6 was it a requirement of the position that you
7 be Catholic?
8 A It was.
9 Q Okay. Is it a requirement of Edgewood, if
10 you know, that all of your teachers and coaches on
11 your athletic teams are Catholic?
12 A It is not.
13 Q You mentioned you have a degree from Upper Iowa.
14 Do you have any other certifications, degrees, or
15 any other training of that nature?
16 A No.
17 Q Do you have any training or education in law?
18 A No.
19 Q Any training or education in urban planning?
20 A No.
21 Q Okay. Have you ever worked for a city, town, or
22 municipality?
23 A No.
24 Q Prior to your position as president of Edgewood,
25 had you had any occasion to work with any city,

Page 15

1 town, or municipality regarding permits?
2 A Not to my recollection.
3 Q Okay. With regard to your being hired by Edgewood
4 in 2013 -- Well, strike that.
5 Let me ask you, between the time you took
6 over July 1 and the March date that you were
7 hired, did you have a title that was different
8 than president?
9 A Incoming president.
10 Q Okay. Fair enough. With regard to that position
11 that you were hired for for Edgewood, was part of
12 the responsibilities for you to sit on the Board
13 of Directors?
14 A Yes.
15 Q Okay. Have you performed any kind of services or
16 served on the board of Edgewood's grade school or
17 Edgewood's college?
18 A No.
19 Q Okay. Do those three entities have separate
20 boards?
21 A Yes.
22 Q Okay. Had you served in any capacity for Edgewood
23 prior to your hire in July -- I'm sorry, in March
24 of 2013? That is, had you served on any
25 committees of the board or anything of that

Page 16

1 nature?
2 A Yes. I was on the Board of Trustees, and I was on
3 some different committees.
4 Q Can you tell me when you served on the Board of
5 Trustees prior to your joining in 2013?
6 A I don't know the exact dates of my time. It was a
7 six-year term. Probably in the teens of --
8 Q Were you serving on the Board of Trustees just
9 before you got hired in March?
10 A No.
11 Q Okay. Do you have a rough idea of the gap between
12 when you got hired and when you completed your
13 service on the Board of Trustees?
14 A I'm not sure, but probably like five to six years.
15 Q Okay. So your service was somewhere in the nature
16 of 2001 to 2007, roughly in that range?
17 A I believe so.
18 Q Okay. You indicated that you were on committees.
19 Could you give me a little background on what
20 committees you might have been on?
21 A I was on the admissions committee and the fund
22 raising committee. As part of the board, you sat
23 on one or more committees.
24 Q And would that have been in that same timeframe of
25 2001 to --

Page 17

1 A Correct.
 2 MR. INGRISANO: Let her finish her
 3 question. Okay?
 4 THE WITNESS: Okay.
 5 MR. INGRISANO: Don't talk over.
 6 THE WITNESS: Sorry.
 7 Q It's okay. It will happen, and I'll do it to you
 8 accidentally.
 9 Who held the position of president at
 10 Edgewood prior to you taking over?
 11 A Judd Schemmel.
 12 Q Do you know whether Judge Schemmel is still --
 13 well, first of all, is Judge the first name or is
 14 that the position?
 15 A Judd.
 16 Q Judd. I'm sorry.
 17 A Yes.
 18 Q Do you know whether Judd Schemmel is still around
 19 in the area?
 20 A Yes. He is still in the Madison area.
 21 Q Do you know whether he is working anywhere?
 22 A Yes. American Family Insurance.
 23 Q Okay. I understand from reading in the paper that
 24 you're retiring in June; is that right?
 25 A That's the plan.

Page 18

1 Q Do you have plans to do other work involving
 2 Edgewood after your retirement?
 3 A At this time, I'm not sure if I'm going to
 4 continue to work at Edgewood. It will depend on
 5 the new president, when he gets here and what his
 6 needs are.
 7 Q And who is the new president going to be? Has
 8 that been announced?
 9 A Yes. Kevin Rea.
 10 Q Do you have plans on serving on any committees or
 11 the Board of Trustees if you're not employed
 12 formally by Edgewood?
 13 A Not really at this time.
 14 Q Okay. Do you have any plans to move or live
 15 outside of Dane County after your retirement in
 16 June?
 17 A I will always have a home, I think, in
 18 Dane County. I also have a home in St. George,
 19 Utah.
 20 Q Okay. The Edgewood campus is comprised of three
 21 different schools; correct?
 22 A Yes.
 23 Q Okay. There is the Edgewood grade school,
 24 Edgewood High School, and Edgewood College;
 25 correct?

Page 19

1 A That's correct.
 2 Q And Edgewood High School is a private Catholic
 3 college preparatory school; true?
 4 A Edgewood College, yes. I'm sorry. Did you say
 5 college or --
 6 Q I'm sorry. I was trying to ask the type of
 7 high school it is. So it's a Catholic college
 8 prep school; correct?
 9 A Correct.
 10 Q Okay. Are the grade school -- well, the Edgewood
 11 grade school, the high school, and the college are
 12 all sponsored by the Dominican Sisters of
 13 Sinsinawa; correct?
 14 A Sinsinawa.
 15 Q But my statement was correct?
 16 A Correct.
 17 Q I will warn you, Mr. Elliott, I am horrible with
 18 names. I'm sure I'm going to butcher that name
 19 more than once. I'll do my best. Feel free to
 20 correct me, though. Sinsinawa?
 21 A Sinsinawa.
 22 Q Sinsinawa. Okay. I'm sorry. I wrote it
 23 phonetically wrong on my paper.
 24 Do the grade school and the college follow
 25 the same religious teachings and exercise of faith

Page 20

1 as the high school does?
 2 A I believe so.
 3 Q Are you aware or do you know what sports the grade
 4 school engages in?
 5 A I do not.
 6 Q Okay. Are you aware of the grade school engaging
 7 in sports activities, you just don't know which
 8 ones, or you don't know whether or not they engage
 9 in any sports?
 10 A I know they engage in sports. I just don't know
 11 all of the sports.
 12 Q Okay. Do you know some of the sports in which
 13 they engage in?
 14 A I believe they engage in basketball and softball
 15 and track and field.
 16 Q Okay. And with respect to those -- and I used the
 17 term sports. I should have probably said
 18 competitive sports. They have teams that they
 19 play against other schools; correct?
 20 A I believe so. I think they're part of the MAISL
 21 League.
 22 Q Do you know where the grade school plays its track
 23 and field games?
 24 A For the most part, at Edgewood High School.
 25 Q Okay. There is a track and field at Edgewood High

<p style="text-align: right;">Page 21</p> <p>1 School that's often referred to as the Goodman 2 track and field? 3 A Correct. 4 Q That's where the grade school you believe 5 currently plays its track and field games; 6 correct? 7 A Yes. I'm not sure how many track meets they have 8 in a year, but I know that the one major one is 9 held at Edgewood for all the parochial schools. 10 Q Okay. There were some renovations to the 11 high school's track and field in roughly 2015; 12 correct? 13 A Correct. 14 Q Do you know whether the grade school had its track 15 and field meet at Edgewood prior to 2015 or was 16 there somewhere else that they would hold that 17 meet? 18 A There was -- prior to it, there were years that it 19 was held there, but then the track was in such bad 20 shape that there were a couple of years where we 21 couldn't host until the track was then redone. 22 Q And the years that Edgewood couldn't host, do you 23 know where they played? 24 A I believe one year they went to -- Monona Grove 25 hosted it, but that was deemed too far away for</p>	<p style="text-align: right;">Page 23</p> <p>1 A I am not sure where that is. 2 Q Okay. Are you aware at all of Edgewood College 3 playing at the Reddan complex, R-e-d-d-a-n, in 4 Verona? 5 A I'm not aware if they play there. 6 Q Okay. Are you aware of Edgewood College 7 playing -- Strike that. 8 Track and field, do you know where Edgewood 9 College plays its track and field events? 10 A They practice at our facility, but I'm not sure 11 where the league that they play in goes to for 12 their competitions. 13 Q Okay. Does the Edgewood grade school, 14 high school, and college have completely separate 15 finances or is there some overlap between the 16 schools? 17 A Separate. 18 Q Okay. Does the high school ever charge the grade 19 school or college for use of any of its fields or 20 facilities? 21 A In the past there has been charges. I am not sure 22 if we continue to charge them for using it. 23 Q In the past has the charges included charges for 24 use of the athletic fields? 25 A There have been -- there was -- not the campus</p>
<p style="text-align: right;">Page 22</p> <p>1 the schools, so I think it was only one year and 2 then the other year they didn't have it. 3 Q Okay. With respect to basketball, do you know 4 where the grade school conducts its competitive 5 basketball games? 6 A In the Edgedome, their facility. 7 Q And what about softball, if you know? 8 A I don't know. 9 Q Okay. Do you know what competitive sports 10 Edgewood College plays? 11 A I know some of their sports, not all of them. 12 Q Could you tell me which ones you know? 13 A Basketball, track and field, golf. Those are the 14 only ones. There is probably more, but at this 15 point that's all I can recall. 16 Q Do you know whether Edgewood College has a 17 baseball or soccer team? 18 A They do, now that you say that. 19 Q And what about lacrosse or tennis? 20 A I am not sure on tennis or lacrosse. 21 Q Okay. With respect to baseball, do you know where 22 Edgewood College plays its baseball games? 23 A I do not. 24 Q Okay. What about where Edgewood College plays its 25 soccer games?</p>	<p style="text-align: right;">Page 24</p> <p>1 school. But the college, there was charges to use 2 the facility. 3 Q You're aware, are you not, sir, that the Edgewood 4 College is currently building an athletic complex 5 that would host all of its athletics, outdoor 6 athletics, in Fitchburg? 7 A I am. 8 Q Okay. And are you aware that that athletic 9 complex would include a soccer stadium and 10 baseball and softball fields, as well as some 11 track and field? 12 A I honestly don't know everything they're going to 13 have out there at this point. 14 Q Okay. Do you know when the college first began 15 exploring building athletics? 16 A I don't. 17 (Exhibit No. 48 marked for 18 identification) 19 Q Mr. Elliott, I'm showing you what's been marked as 20 Exhibit 48. I don't expect you to necessarily 21 know this. This is just to see whether this jogs 22 any of your memory and/or just to let you see 23 where I'm expecting -- where I believe to be the 24 case. 25 This is a Fitchburg Star newspaper article,</p>

<p style="text-align: right;">Page 25</p> <p>1 and up in the corner it's dated August 9, 2019.</p> <p>2 Do you see that, sir?</p> <p>3 A I do.</p> <p>4 Q Okay. And turning to the third page of the</p> <p>5 document, I'll represent to you this is the City</p> <p>6 of Fitchburg talking about its own comprehensive</p> <p>7 city plan.</p> <p>8 And if you look, I'm going to direct your</p> <p>9 attention to the heading that says "Updated</p> <p>10 comprehensive plan expected by spring election."</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q Okay. And in that column, if you go down one,</p> <p>14 two, three, four, five, six, it's referring -- if</p> <p>15 you read that paragraph, it's referring to an</p> <p>16 Edgewood athletic complex and an outdoor learning</p> <p>17 complex along Lacy Road. Do you see that?</p> <p>18 A What does that paragraph start with?</p> <p>19 Q "While the timeline would make the plan complete</p> <p>20 by the April election" --</p> <p>21 A Okay.</p> <p>22 Q -- "it could complicate a pair of projects that</p> <p>23 have been brought up over the past two weeks:</p> <p>24 an Edgewood College athletic and outdoor learning</p> <p>25 complex along Lacy Road." Do you see that, sir?</p>	<p style="text-align: right;">Page 27</p> <p>1 volleyball, we have boys football, we have boys</p> <p>2 lacrosse, we have boys and girls hockey, we have</p> <p>3 girls softball and boys baseball, we have girls</p> <p>4 and boys golf. I'm not sure if --</p> <p>5 Q Track and field?</p> <p>6 A We have track and field for boys and girls.</p> <p>7 Q Okay. Now, with respect to outdoor -- or those</p> <p>8 that use outdoor fields, that would be football,</p> <p>9 lacrosse, softball, baseball, golf, and track and</p> <p>10 field; correct?</p> <p>11 A Say those names again.</p> <p>12 Q That's all right. It was a bad question because I</p> <p>13 referred to a field, and I'm not sure you would</p> <p>14 call golf a field.</p> <p>15 With regard to actual fields, it would be</p> <p>16 football, lacrosse, softball, baseball; correct?</p> <p>17 A And track uses both the field and the track.</p> <p>18 Q Okay. Thank you. With respect to football, where</p> <p>19 does Edgewood play its competitive games?</p> <p>20 MR. INGRISANO: Objection. Form.</p> <p>21 Vague. Go ahead.</p> <p>22 Q Well, I'll clarify for that.</p> <p>23 With respect to Edgewood football, where does</p> <p>24 it play its home competitive games?</p> <p>25 A Different -- whatever stadium is available at the</p>
<p style="text-align: right;">Page 26</p> <p>1 A I do.</p> <p>2 Q Okay. Were you part of any discussions in 2019</p> <p>3 with regard to the college wanting to build an</p> <p>4 athletic contest -- or complex?</p> <p>5 A Not to my recollection.</p> <p>6 Q Okay. Have there been any discussions about</p> <p>7 Edgewood High School being able to use the stadium</p> <p>8 that the college is building in Fitchburg?</p> <p>9 A Not to my knowledge.</p> <p>10 Q Is it something that you anticipate the</p> <p>11 high school would explore given the current state</p> <p>12 of its facilities?</p> <p>13 MR. INGRISANO: Objection. Form.</p> <p>14 Foundation. Go ahead.</p> <p>15 Q If you know.</p> <p>16 A I am not sure what they're talking about</p> <p>17 completely building out there. If it had sports</p> <p>18 that we didn't have on our campus, there may be a</p> <p>19 desire to play those sports there.</p> <p>20 Q Okay. Now, with respect to Edgewood High School's</p> <p>21 outdoor field sports, what sports does Edgewood</p> <p>22 play, if you know?</p> <p>23 A I'll give you a list. I'm not positive if I'm</p> <p>24 going to name everything here right now. We have</p> <p>25 boys and girls basketball, we have boys and girls</p>	<p style="text-align: right;">Page 28</p> <p>1 time that we have a game. So it's multiple</p> <p>2 stadiums.</p> <p>3 Q And which stadiums are those?</p> <p>4 A Breese Stevens field. That's typically where</p> <p>5 we've played, or Middleton.</p> <p>6 Q Okay. Any others that you're aware of?</p> <p>7 A Well, sometimes we have to forfeit our home game</p> <p>8 to the team we're playing because we can't get a</p> <p>9 stadium.</p> <p>10 Q How often has that occurred?</p> <p>11 A I don't know that answer.</p> <p>12 Q Okay. Has that occurred -- Give me the years in</p> <p>13 which that has occurred. Does that happen every</p> <p>14 year, for example?</p> <p>15 A I'm only guessing, but I would say that happens</p> <p>16 one -- every year one or two times.</p> <p>17 Q Okay. To the best of your knowledge, has Edgewood</p> <p>18 ever not been able to secure a site, whether it be</p> <p>19 at one of the facilities you just mentioned or the</p> <p>20 opposite team, has Edgewood ever not been able to</p> <p>21 secure a site for its game?</p> <p>22 A I'm not involved in the athletics to the degree</p> <p>23 of knowing that all the time. I would just be</p> <p>24 guessing.</p> <p>25 Q Okay. That's fine. That's fair. I don't want</p>

Page 29

1 you to guess, sir, but thank you for that.
 2 Where does Edgewood's lacrosse team play, if
 3 you know, for its competitive home games?
 4 MR. INGRISANO: I'm going to object
 5 to form. Vague as to varsity and JV. That's
 6 a distinction that hasn't been drawn that I
 7 think needs to be drawn, but go ahead.
 8 A Can you repeat the question?
 9 Q I asked with regard to lacrosse where you have
 10 played your competitive home games.
 11 A For the most part, we've played them at Edgewood.
 12 Q Okay. And did you play those games at Edgewood
 13 both before and after 2015?
 14 A I have to try to -- I'm not sure when our lacrosse
 15 program started.
 16 Q Okay.
 17 A So I'm not sure.
 18 Q Okay. What about softball and baseball, do you
 19 know where Edgewood has played its competitive
 20 home games?
 21 A Various fields. Warner Park has been a field that
 22 baseball has played. I honestly don't know what
 23 city parks the girls softball program is played
 24 at.
 25 Q Okay. With respect to Warner Park and Breese

Page 30

1 Stevens, those are city-owned properties; correct?
 2 A I'm not sure with Breese Stevens, but I know
 3 Warner Park is.
 4 Q Has the city ever precluded Edgewood from using
 5 its fields when those fields are available?
 6 MR. INGRISANO: Objection.
 7 Foundation.
 8 Q If you know.
 9 A I don't know that.
 10 Q Okay. With regard to the Edgewood High School's
 11 competitive sports programs, which competitive
 12 sports play games at night, if you know?
 13 MR. INGRISANO: Objection. Form.
 14 Foundation.
 15 A Can you repeat the question but also with clarity,
 16 because I was confused. I'll listen again.
 17 Q No, that's okay. You identified a number of
 18 Edgewood High School's competitive sports
 19 programs; correct?
 20 A Uh-huh.
 21 Q Which of those competitive sports programs play
 22 games at night, if you know?
 23 A Okay. Football for sure. Lacrosse, soccer. We
 24 have ultimate frisbee as a sport that plays at
 25 night. Track and field plays at night. And there

Page 31

1 are other sports that would love to play at night,
 2 but they don't have the field to do so.
 3 Q What other sports, competitive sports at Edgewood
 4 would love to play at night that you did not
 5 mention?
 6 A The women's softball team is one and our field
 7 could host a women's game in softball. Not a
 8 boys baseball. The dimensions of the park are
 9 different.
 10 Q With respect to the football program and night
 11 games, Edgewood's football -- let me strike that
 12 and start again. Sorry. I was going to ask a bad
 13 question.
 14 I should also say going forward if I just
 15 refer to Edgewood, I'm referring to the
 16 high school. If I'm going to refer to the college
 17 or the grade school, I'll identify those
 18 separately. Can we agree on that?
 19 A Yes.
 20 Q Okay. With respect to Edgewood's football program
 21 and night games, the football program has been
 22 able to play those night games at other venues;
 23 correct?
 24 MR. INGRISANO: Objection. Form.
 25 Foundation.

Page 32

1 Q If you know.
 2 A For the most part.
 3 Q With respect to soccer, do both the boys and the
 4 girls competitive soccer programs at Edgewood play
 5 games at night?
 6 A Yes.
 7 Q And where do the boys soccer team play their night
 8 games?
 9 A Either on the road or at Reddan.
 10 Q And what about the boys soccer team, where have
 11 they played their night games, if you know?
 12 A Either on the road or at Reddan.
 13 Q With respect to ultimate frisbee you mentioned,
 14 is that a competitive program at Edgewood?
 15 A It's a new club sport.
 16 Q Do you know whether they have ever played any
 17 night games?
 18 A I believe they have played some road night games
 19 but not any home games.
 20 Q Okay. Has Edgewood High School investigated the
 21 possibility of the ultimate frisbee team playing
 22 night games at another venue?
 23 A I don't know that.
 24 Q Okay. With respect to track and field, where has
 25 Edgewood's competitive team played night games?

<p style="text-align: right;">Page 33</p> <p>1 A Just away venues to other probably Badger 2 Conference schools. 3 Q All right. Has Edgewood investigated the 4 possibility of its track and field team playing 5 a night game at another venue within the city? 6 A I'm not sure. 7 Q Okay. With respect to the night games for 8 Edgewood's competitive programs where they are 9 home games but held at a venue elsewhere in the 10 city, how do the students get to that venue? 11 Does Edgewood bus them? 12 A No. 13 Q No? I'm sorry. Sorry. I didn't hear you. 14 A No. 15 Q Okay. How do those students get there, if 16 you know? 17 A Their parents either drive them or they drive 18 there themselves. 19 Q With respect to away games, does Edgewood bus the 20 students to away games or are parents responsible 21 for getting their children to away games? 22 MR. INGRISANO: Objection. Form. 23 Go ahead. 24 A There are some games that Edgewood buses them to. 25 Q Okay.</p>	<p style="text-align: right;">Page 35</p> <p>1 A Yeah, I'm not -- I don't -- I wouldn't be able to 2 answer that question. 3 Q So you're not aware of any? 4 A I'm not aware. 5 Q Do you know a rough estimate of what percentage of 6 current Edgewood High School students live outside 7 the city of Madison? 8 A I don't know that number. 9 Q Can you give me a rough estimate? 10 A Outside the Madison area, did you say? 11 Q Outside the city of Madison. 12 MR. INGRISANO: Objection. Form. 13 Calls for speculation. Go ahead. 14 A I don't know. 15 Q Okay. 16 A I'm sorry. 17 Q That's okay. With respect to the Dominican 18 Sisters of -- I'm going to say it wrong. 19 MR. STERETT: Sinsinawa. 20 Q Sinsinawa, thank you. What does it mean that this 21 order sponsors Edgewood High School? 22 A They -- it's complex, but basically they -- we 23 have to have a juridic person sponsorship or we 24 can't exist. So they're our Catholic sponsorship 25 to exist.</p>
<p style="text-align: right;">Page 34</p> <p>1 A And then they also drive themselves. 2 Q Okay. 3 A Or their parents. 4 Q To your knowledge has Edgewood ever secured an 5 athletic field for a night activity other than 6 sports? 7 A We have had different events but not -- that 8 we've -- I'm not able to answer that. I'm not 9 sure. 10 Q Okay. I'm going to follow up because you started 11 by saying we've had other events and then saying 12 you're not sure. 13 I just want to clarify. If you're aware of 14 other events where you have secured an athletic 15 field for nighttime use, I would like to know what 16 those are, or if you're saying you don't know, 17 please so state. 18 A I don't know if they've secured a place for other 19 events. 20 Q Okay. You're not aware of any as you sit here 21 today; fair? 22 A Just can you ask that question one more time? 23 Q Sure. Are you aware of Edgewood securing a field 24 for nighttime use for any activities other than 25 sports?</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Okay. It's a Catholic order that is sponsoring 2 the high school; correct? 3 A Correct. 4 Q Are they providing funding? Administrative 5 guidance? Can you describe the relationship? 6 MR. INGRISANO: Objection. Form. 7 Vague. Go ahead. 8 A They have ownership of us, and they give us an 9 annual gift to help support us. They also have 10 corporate sponsorship counsel that assists in 11 managing the school. 12 Q Are they involved at all in the day-to-day running 13 of the school? 14 A No. 15 Q Are there requirements that the high school must 16 meet in order to be sponsored by them? 17 MR. INGRISANO: Objection. 18 Foundation. Go ahead. 19 Q If you know. 20 A I don't -- there is -- I mean, we have to live up 21 to a standard. There is an expectation that we're 22 going to follow the Catholic teachings of the 23 church, that we're going to follow the mission of 24 the Sinsinawa Dominican Sisters, and that we're 25 going to maintain an education that includes the</p>

<p style="text-align: right;">Page 37</p> <p>1 Catholic teachings.</p> <p>2 Q Okay. Do you know whether there is any kind of</p> <p>3 contract or written agreement between Edgewood</p> <p>4 High School and the Dominican Sisters of</p> <p>5 Sinsinawa?</p> <p>6 A I don't know that.</p> <p>7 Q Okay. Do you agree that there is no requirement</p> <p>8 that a school sponsor a sports program in order</p> <p>9 to be sponsored by the Dominican Sisters of</p> <p>10 Sinsinawa?</p> <p>11 MR. INGRISANO: Objection.</p> <p>12 Foundation.</p> <p>13 A Our mission states that we educate the whole</p> <p>14 student for a life of learning, and they believe</p> <p>15 strongly in the cocurricular activities of a</p> <p>16 school, that as much, if not more, could be</p> <p>17 learned in that setting than just a classroom</p> <p>18 setting. So they are very supportive of us having</p> <p>19 sports programs or fine arts programs and service</p> <p>20 programs that help teach the kids.</p> <p>21 Q Would you agree, though, sir, it's not a</p> <p>22 requirement that Edgewood have a sports program in</p> <p>23 order to be sponsored?</p> <p>24 MR. INGRISANO: Objection. Form.</p> <p>25 Vague as to requirement. Objection to</p>	<p style="text-align: right;">Page 39</p> <p>1 a sports team?</p> <p>2 A Not that I can recall.</p> <p>3 Q Okay. Are you aware of any requirement in the</p> <p>4 Catholic faith for an individual to participate in</p> <p>5 sports?</p> <p>6 MR. INGRISANO: Objection. Form.</p> <p>7 Go ahead.</p> <p>8 A Not that I'm aware of.</p> <p>9 Q Okay. Have you visited the Dominican Sisters of</p> <p>10 Sinsinawa's website?</p> <p>11 A I'm sure I have at some point, but not for awhile.</p> <p>12 Q Do you agree that that website does not mention</p> <p>13 sports at all?</p> <p>14 MR. INGRISANO: Objection. Form.</p> <p>15 A I'm not aware of that.</p> <p>16 (Exhibit No. 49 marked for</p> <p>17 identification)</p> <p>18 Q Mr. Elliott, I'm showing you what's been marked as</p> <p>19 Exhibit 49. I'll represent to you that this is an</p> <p>20 attempt to capture all of the pages of the Sisters</p> <p>21 of Sinsinawa's website.</p> <p>22 I'd like you to take a look through that and</p> <p>23 tell me whether or not anywhere on here mentions</p> <p>24 sports or athletic competition.</p> <p>25 MR. INGRISANO: Go ahead and review</p>
<p style="text-align: right;">Page 38</p> <p>1 foundation.</p> <p>2 A I would say based on their mission they would not</p> <p>3 allow that to happen.</p> <p>4 Q So it's your understanding that every school that</p> <p>5 the Dominican Sisters of Sinsinawa sponsors has to</p> <p>6 have a sports program?</p> <p>7 MR. INGRISANO: Objection. Form.</p> <p>8 Argumentative. Objection. Foundation.</p> <p>9 A I would -- I can only speak for Edgewood High</p> <p>10 School. I don't know about their other schools</p> <p>11 and what they offer as far as -- I know their</p> <p>12 expectation of Edgewood High School. We have a</p> <p>13 very high percentage of students who -- all of our</p> <p>14 students participate in something cocurricular,</p> <p>15 whether it's clubs, whether it's fine arts, or</p> <p>16 whether it's athletics.</p> <p>17 Q And I know you keep broadening it to cocurricular,</p> <p>18 but I'm focusing just on sports teams.</p> <p>19 A Uh-huh.</p> <p>20 Q Have you ever seen anything in writing at all from</p> <p>21 the Dominican Sisters of Sinsinawa that you must</p> <p>22 have a sports team?</p> <p>23 A I've not seen anything in writing.</p> <p>24 Q Okay. Has anyone -- Has any of the sisters ever</p> <p>25 verbally indicated to you that Edgewood must have</p>	<p style="text-align: right;">Page 40</p> <p>1 the document. I'm going to object to</p> <p>2 foundation on this document as well.</p> <p>3 (Exhibit No. 50 marked for</p> <p>4 identification)</p> <p>5 Q So have you had a chance to review the document,</p> <p>6 Mr. Elliott?</p> <p>7 A I have.</p> <p>8 Q Did you see any mention of sports or athletic</p> <p>9 contests in the document?</p> <p>10 A Well, I had stated that I haven't been on their</p> <p>11 site for a while, but the last time I was on their</p> <p>12 site there was a section that referred to</p> <p>13 sponsored schools. And I think that -- I don't</p> <p>14 know if this is their whole website at this point.</p> <p>15 But typically they had a tab for their</p> <p>16 sponsored account schools which defined all the</p> <p>17 schools that they sponsored, and that's where the</p> <p>18 activities of the school were displayed. But this</p> <p>19 may be a new website that I haven't seen.</p> <p>20 In this particular website, I did not see.</p> <p>21 Q You recognize the web address of the</p> <p>22 www.Sinsinawa.org as being the web address for</p> <p>23 the Sisters' website; correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. And at least with respect to this document,</p>

Page 41

1 you did have an opportunity to look at the pages
2 that define who the Sisters are and their overall
3 mission; correct?
4 MR. INGRISANO: Objection. Form.
5 Are you asking him to review it again? You
6 asked him first about sports references, and
7 now you're asking him to look for something
8 else?
9 Q I'm asking whether he reviewed those pages of the
10 document.
11 A I reviewed the pages of the document I was handed.
12 Q While the document isn't numbered, can you turn to
13 page 13 of the document? The top of the page says
14 About Us: Our Mission.
15 A Page 13?
16 Q Correct. And I'm sorry, the document isn't
17 numbered, but at the top of the page, About Us:
18 Our Mission.
19 MR. INGRISANO: I have it as page
20 12.
21 MS. ZYLSTRA: Thank you.
22 MR. INGRISANO: If you go one
23 earlier. Is it this page, Counsel?
24 MS. ZYLSTRA: Yes.
25 Q It's the page with the picture of the five Sisters

Page 42

1 on it.
2 MR. INGRISANO: Keep going. There
3 you go.
4 A Okay. Sorry.
5 Q I'll let you review the document, but I'll give
6 you a preview of what my question is so that you
7 can have that in mind when you review it.
8 Do you believe this page that starts About
9 Our Mission, continuing on to the second page,
10 accurately reflects the Dominican Sisters of
11 Sinsinawa's mission, vision, and direction?
12 A I do.
13 Q And at least on those pages, with respect to their
14 vision, mission, and direction, there is no
15 mention of sports or athletic activities; correct?
16 A None that I see.
17 Q Okay. Sir, are you aware of what Edgewood's
18 enrollment has been -- Edgewood High School's
19 enrollment has been for the last ten years?
20 A Not the last ten.
21 Q Okay. I'm going to show you what's been marked as
22 Exhibit 50. Do you recognize Exhibit 50 as an
23 accreditation report for Edgewood dated October 11
24 through 14 of 2015?
25 A Yes.

Page 43

1 Q Okay. At least since 2010 Edgewood has faced
2 declining enrollment. Do you agree with that,
3 sir?
4 A Yes.
5 Q Okay. And if you'd turn to -- I'm going to use
6 the upper internal pages of the document because
7 it will be easy for you. 73. Are you there, sir?
8 A Yes.
9 Q Okay. I'm going to direct your attention to the
10 last paragraph on that page. And the second
11 sentence says, "Enrollment for the current school
12 year is 539 students down from 658 students in
13 2009-2010." Do you see that, sir?
14 A I do.
15 Q Do you have any reason to believe that that's
16 an inaccurate statement of what your student
17 population -- or your student enrollment was in
18 2009 and '10, as well as the 539 number for 2013?
19 MR. INGRISANO: Objection as to
20 foundation for this document. Go ahead.
21 A No.
22 Q Okay. Well, with respect to this document, this
23 is from October of 2015, which is when you were
24 currently president of Edgewood; correct?
25 A Correct.

Page 44

1 Q And this is a report that was written to you as
2 president; correct?
3 MR. INGRISANO: Objection.
4 Foundation. Go ahead. Form.
5 A This wasn't written to me. I participated in it.
6 Q Okay. Tell me about your -- tell me what the
7 background is of why there is an accreditation
8 report from 2015.
9 A For us to maintain our accreditation, we have to
10 do a self-study every -- it's a seven-year cycle.
11 Q Okay. And as part of that, did Edgewood provide
12 information to the Independent Schools Association
13 of the Central States in order to continue its
14 accreditation?
15 A Yes.
16 Q And as president of the school, you would expect
17 that the information that was provided to them
18 was truthful, correct, and accurate? Yes?
19 A Yes.
20 Q And at least with respect to this report, they're
21 reporting your enrollment as 658 students in 2009
22 and '10 and 539 students in 2015. Correct?
23 A Correct.
24 Q Okay. And you would have reviewed this report at
25 the time that you received it in 2015; correct?

Page 45

1 A Yes.
2 Q And if there was anything in the report that was
3 inaccurate, you would have contacted the
4 Independent Schools Association to correct it;
5 correct?
6 A Yes.
7 Q Okay. How many students are enrolled currently at
8 Edgewood, if you know?
9 A It changes. I believe -- can I give you a range?
10 Q Sure.
11 A Somewhere between 520 and 530. And that's a
12 guess. I'm not sure. We have students that come
13 and go at different times of the year.
14 Q Okay. Your website currently says your enrollment
15 is 488. Do you know why your website would list
16 it as 488?
17 MR. INGRISANO: Objection. Form.
18 Assumes facts not in evidence. Go ahead.
19 A Not being updated.
20 Q Okay. We spoke earlier just very briefly that you
21 had a renovation of the Goodman Athletic Complex,
22 the track and field; correct?
23 A Renovation as in when we -- recently or are you
24 talking about --
25 Q Let me rephrase that. That was a poor question.

Page 46

1 A Yes.
2 Q I understand that in 2015 that there was a
3 \$1.025 million renovation of the Goodman Athletic
4 Complex, which included your track and field and
5 the field; correct?
6 A Correct.
7 Q Okay. And at least with respect -- Strike that.
8 That was a significant renovation; correct?
9 MR. INGRISANO: Objection. Form.
10 Vague as to "significant."
11 A Significant, I don't know what --
12 MS. ZYLSTRA: Counsel, just form or
13 foundation. I'll ask for clarification,
14 please.
15 MR. INGRISANO: No. I'm allowed
16 to -- that's not a speaking objection.
17 MS. ZYLSTRA: It is.
18 MR. INGRISANO: No, it's not.
19 MS. ZYLSTRA: Well, we can call the
20 Court if we get that far, but the objection
21 is form or foundation.
22 MR. INGRISANO: And a phrase as
23 stating what the basis for that objection is
24 is perfectly acceptable. That's not a
25 speaking objection.

Page 47

1 MS. ZYLSTRA: No. Only if I ask,
2 Counsel.
3 MR. INGRISANO: Sorry. I'm making
4 a record.
5 Q You indicated earlier that the renovations to the
6 field -- that prior to the renovations the field
7 wasn't very usable and after the renovations you
8 were able to hold a lot more practices and
9 athletic contests on the field; correct?
10 A Correct.
11 Q Okay. And with respect to the \$1.25 million
12 renovation, had Edgewood ever received a donation
13 of that amount to renovate any of its athletic
14 fields prior?
15 MR. INGRISANO: Objection.
16 Foundation.
17 Q If you know.
18 A I don't.
19 Q You believed that was a lot of money that was
20 useful for Edgewood to update its athletic fields;
21 correct?
22 A Yes.
23 Q Okay. And part of the reason you wanted the money
24 to update those fields was you were hoping that it
25 would increase enrollment at Edgewood High School;

Page 48

1 correct?
2 MR. INGRISANO: Objection. Form.
3 A One of the reasons.
4 Q Okay.
5 MR. INGRISANO: Counsel, when
6 you're ready for a break, we'll take one.
7 MS. ZYLSTRA: We will as soon as I
8 finish this line of questioning.
9 Q The increase -- or the renovation, the
10 \$1.25 million renovation of Goodman, has not led
11 to increased enrollment. Agree?
12 MR. INGRISANO: Objection. Form.
13 A I disagree.
14 Q Well, you indicated that your enrollment in 2010
15 was 658 students, in 2015 -- in October of 2015 it
16 was 539 students, and today it's somewhere between
17 520 and 530 students; correct?
18 A Since I've been president, enrollment has gone up.
19 Q From when to when?
20 A We were at 470, and we're now at the range of --
21 that I gave you, which was around 530 students,
22 I believe.
23 Q When were you at 470?
24 A I would have to look at our records to get that
25 exact year for you.

Page 49

1 Q Can you give me any estimate on when you were at
 2 470?
 3 A An estimate would probably be three to four years
 4 ago.
 5 Q So 2017?
 6 A That's an estimate.
 7 Q Okay. With respect to from the time period of
 8 2015 to 2017, your enrollment decreased; correct?
 9 A I can't answer that.
 10 Q Your enrollment for the school year for 2015 was
 11 539 students, and you're telling me roughly in
 12 2017 it was 470 students; correct?
 13 A Yes.
 14 Q That's a decrease in enrollment; correct?
 15 A Correct.
 16 Q And that was after the changes to the Goodman
 17 Athletic Complex; correct?
 18 A I would have to look at our enrollment numbers to
 19 agree or disagree with that.
 20 Q My question, sir, was the time period you just
 21 described, from 2015 to 2017, was after the
 22 athletic complex changes to the Goodman field;
 23 correct?
 24 A Correct.
 25 MS. ZYLSTRA: Okay. We can take a

Page 50

1 break.
 2 MR. INGRISANO: Great. Thank you.
 3 MS. ZYLSTRA: Thank you.
 4 MR. HANSEN: Going off the record
 5 at 10:06.
 6 (Recess)
 7 MR. HANSEN: We're back on the
 8 record at 10:22.
 9 Q Sir, with respect to Exhibit 50 in front of you,
 10 can you turn to internal page 19?
 11 A I'm sorry. I've got to get my glasses back out.
 12 Sorry. 9? 10? Repeat the --
 13 Q 19, please.
 14 A 19. Top?
 15 MR. INGRISANO: Uh-huh.
 16 A There.
 17 Q And I want to direct your attention to the third
 18 paragraph on that page. I'm going to ask you to
 19 read that paragraph to yourself.
 20 Are you ready, sir?
 21 A Uh-huh.
 22 Q Okay. This report is indicating that one of the
 23 challenges for Edgewood is that the area's public
 24 schools are academically competitive and seen as a
 25 viable alternative to Edgewood; correct?

Page 51

1 A Correct.
 2 Q And it notes that 53 percent of the population in
 3 the area identifies as Roman Catholic; correct?
 4 A Correct.
 5 Q And it notes that other than one small Catholic
 6 high school, Edgewood is the other Catholic
 7 high school; correct?
 8 MR. INGRISANO: Objection.
 9 Foundation. Form.
 10 A Correct.
 11 Q Okay. And that for purposes of attracting
 12 students to Edgewood, it's noting that there are
 13 37 parishes and 12 Catholic elementary schools;
 14 correct?
 15 A Correct.
 16 Q And what the -- The import of this paragraph is
 17 that Edgewood is struggling to get those parish
 18 schools to feed their kids to Edgewood High
 19 School; correct?
 20 MR. INGRISANO: Objection. Form.
 21 A I don't think that was the intention.
 22 Q Okay. Well, at least this report is trying to
 23 suggest that for Edgewood to attract students and
 24 increase enrollment that it should improve its
 25 relationship with diocesan leadership and increase

Page 52

1 its presence in those Catholic elementary schools;
 2 correct?
 3 MR. INGRISANO: Objection. Form.
 4 Mischaracterizes the document.
 5 A I think this just stated that we knew we had to
 6 find more ways to have community building with
 7 these parishes so that we could form the
 8 relationships to get more students.
 9 Q Okay. And one of the schools that would be
 10 Edgewood High School's competitor is West High
 11 School; correct?
 12 A It's another high school in the city.
 13 Q Okay. Do you know whether West High School has
 14 lights for its athletic field?
 15 A Well, its home field is Mansfield, so that's a
 16 tough -- so, yes, I would say they do.
 17 Q Let me rephrase my question. That's a good point.
 18 Are you aware of whether West has an athletic
 19 field on site at its high school?
 20 A I'm aware that they do.
 21 Q Okay. Does the field on its home site, by its
 22 school, have lights on that athletic field?
 23 A The current one does not.
 24 Q Okay. And I think you said that for night games
 25 West uses Mansfield; correct?

<p style="text-align: right;">Page 53</p> <p>1 A Correct.</p> <p>2 Q Do you know whether West High School's enrollment</p> <p>3 has been increasing or decreasing in recent years?</p> <p>4 A I do not.</p> <p>5 Q Okay. I want to go back to one thing we talked</p> <p>6 about earlier. You had mentioned that Edgewood</p> <p>7 plays some of its competitive games at Reddan in</p> <p>8 Verona; correct?</p> <p>9 A Yes.</p> <p>10 Q With respect to the Reddan field, does it have</p> <p>11 Edgewood's logo on it?</p> <p>12 A Honestly, I don't know.</p> <p>13 Q Okay. You're aware, sir, are you not, that in</p> <p>14 2013 the City of Madison rezoned and created the</p> <p>15 Campus-Institutional District?</p> <p>16 A I'm aware of that.</p> <p>17 Q Do you know what the zoning was for the Edgewood</p> <p>18 campus prior to 2013?</p> <p>19 A I do not.</p> <p>20 Q Okay. Do you know what the process was for</p> <p>21 Edgewood to make any improvements to its property</p> <p>22 prior to the change in zoning in 2013?</p> <p>23 A I do not.</p> <p>24 Q Okay. Were you involved in any way in any request</p> <p>25 for conditional use permits for Edgewood prior to</p>	<p style="text-align: right;">Page 55</p> <p>1 Resolution. Do you see that?</p> <p>2 A I do.</p> <p>3 Q Okay. And in the second paragraph, and I'll let</p> <p>4 you read the paragraph, but I'll tell you the</p> <p>5 sentence I want to focus on is on that last</p> <p>6 sentence. So if you want to just take a minute to</p> <p>7 review that.</p> <p>8 Have you had a chance to review that, sir?</p> <p>9 A Yes.</p> <p>10 Q At least according to this paragraph, Bill Vanden</p> <p>11 Brook indicated to the neighbors at this meeting,</p> <p>12 including those on Monroe Street, that they would</p> <p>13 be involved in the actual decision on such</p> <p>14 features depicted as landscaping for the practice</p> <p>15 field. Do you see that?</p> <p>16 MR. INGRISANO: Objection.</p> <p>17 Foundation as to this document.</p> <p>18 Q Do you see that in the document, the last sentence</p> <p>19 of that second paragraph?</p> <p>20 A I do.</p> <p>21 Q Okay. Were you aware that there were discussions</p> <p>22 regarding landscaping for the practice field that</p> <p>23 occurred between Edgewood and the neighbors in the</p> <p>24 1990s?</p> <p>25 MR. INGRISANO: Objection. Form.</p>
<p style="text-align: right;">Page 54</p> <p>1 2013?</p> <p>2 A Not that I'm aware of.</p> <p>3 Q Okay. Prior to its 2014 master plan, were you</p> <p>4 aware that Edgewood had a master plan back in 1996</p> <p>5 and 1997?</p> <p>6 A I was aware they had one.</p> <p>7 Q Okay. Were you aware that Edgewood's master plan</p> <p>8 back in the Nineties was presented to the Plan</p> <p>9 Commission of the city as a conditional use?</p> <p>10 A I was not.</p> <p>11 Q Were you aware or are you aware that Edgewood</p> <p>12 needed the support of its neighbors and the</p> <p>13 neighborhood association to get its master plan</p> <p>14 approved back in the Nineties?</p> <p>15 A Yes.</p> <p>16 (Exhibit No. 51 marked for</p> <p>17 identification)</p> <p>18 Q Mr. Elliott, I'm showing you Exhibit 51. I know</p> <p>19 this is before your time at Edgewood, but at least</p> <p>20 at the top this indicates that these are the</p> <p>21 minutes from August 14, 1996, of the Dudgeon-</p> <p>22 Monroe Neighborhood Association. Do you see that?</p> <p>23 A Yes.</p> <p>24 Q Okay. I'm going to direct your attention to</p> <p>25 page 2. And at the top it says Edgewood</p>	<p style="text-align: right;">Page 56</p> <p>1 A No, I was not.</p> <p>2 Q Okay. The next paragraph on that page refers</p> <p>3 to Edgewood finalizing an application for a</p> <p>4 conditional use permit. Do you see that?</p> <p>5 A I'm sorry. Where?</p> <p>6 Q The next sentence down.</p> <p>7 A Okay.</p> <p>8 Q So the next paragraph you agree, at least in this</p> <p>9 document, refers to Edgewood's application for a</p> <p>10 conditional use permit; correct?</p> <p>11 MR. INGRISANO: Objection. Form.</p> <p>12 Foundation as to this document.</p> <p>13 Q The language says, "Char explained that Edgewood's</p> <p>14 finalized application for a conditional use permit</p> <p>15 will come before the D-MNA council after August 26</p> <p>16 and that procedures are still to be determined for</p> <p>17 the liaison group to monitor operational issues</p> <p>18 beyond the usual scope of city regulation." Do</p> <p>19 you see that, sir?</p> <p>20 A Yes.</p> <p>21 Q My question for you, sir, is were you aware of the</p> <p>22 neighbors being involved in a conditional use</p> <p>23 permit of Edgewood back in the 1990s?</p> <p>24 A I was aware of a permit, but I was not -- I had</p> <p>25 heard that there were things. I hadn't reviewed</p>

Page 57

1 the document or understood the document.
 2 Q Understood. But at least from your role as
 3 president, you became aware of some of the
 4 historical information, such as the neighborhood's
 5 involvement in Edgewood's conditional use permit
 6 process back in 1996?
 7 MR. INGRISANO: Objection. Form.
 8 Foundation.
 9 A When I came on, most of the focus was on the new
 10 master plan.
 11 Q Understood. But you were at least aware of
 12 some -- of the history that had occurred between
 13 Edgewood and the neighbors with regard to the
 14 conditional use permit process?
 15 MR. INGRISANO: Objection. Form.
 16 Vague. Go ahead.
 17 A I did not -- I don't recall having been brought up
 18 to speed on that. I did say that I knew there was
 19 some -- a previous procedure that was being
 20 followed.
 21 Q Okay. Can you turn to page 4 of the document.
 22 And midway down there is a resolution about
 23 Edgewood. Do you see that?
 24 A Yes.
 25 Q Okay. And turning to page 5, these are advisory

Page 58

1 votes on a revised conditional use plan. Do you
 2 see that at the top?
 3 A I do.
 4 Q Okay. And going down to activities and
 5 operations, numbers 9 and 10, there is a vote
 6 identified in these minutes that says no lights,
 7 no new PA system, 300 seat seasonal bleachers?
 8 Do you see that?
 9 A I do.
 10 Q And the vote is 16 to 1 in favor of that; correct?
 11 MR. INGRISANO: Objection. Form.
 12 Foundation.
 13 Q That's just what the document says?
 14 A I see it.
 15 Q You see that?
 16 A Yes.
 17 Q And for number 10, it says no permanent structure
 18 for athletic complex? And it's 17 yes and 1 no.
 19 You see that in the document; correct?
 20 A Correct.
 21 Q Were you aware after you became president of
 22 Edgewood that back in 1996 Edgewood was seeking
 23 the neighborhood association's support for a
 24 conditional use permit that would allow Edgewood
 25 to put up lights and install a sound system?

Page 59

1 MR. INGRISANO: Objection. Form
 2 and foundation.
 3 A Can you repeat that question?
 4 Q Sure. Were you aware -- After you became
 5 president of Edgewood, were you aware that back
 6 in 1996 Edgewood sought the neighborhood
 7 association's support for a conditional use permit
 8 that would allow Edgewood to put up lights and
 9 install a sound system?
 10 MR. INGRISANO: Same objections.
 11 A I was not.
 12 Q Okay. Were you aware that Edgewood sought a
 13 conditional use permit -- Strike that.
 14 Were you aware that Edgewood had proposed to
 15 the neighborhood a conditional use permit that
 16 would include lights and a sound system back in
 17 1996?
 18 A Not aware of 1996, a sound system or lights.
 19 Q No one ever brought that to your attention at all
 20 during the process of trying to get lights and a
 21 sound system for Edgewood in the recent years?
 22 MR. INGRISANO: Objection. Form.
 23 Vague as to time.
 24 A I would say the liaison committee talked about
 25 that there was -- that Edgewood couldn't put

Page 60

1 lights up, but I was not aware of conversations on
 2 the sound system. But there were members of the
 3 liaison committee who would bring up at the
 4 meetings when we would have a liaison committee
 5 meeting that, well, Edgewood can't do this.
 6 Q Okay. Did anyone on the liaison committee or any
 7 of the neighborhood associations tell you about
 8 what occurred in '96 as reflected in those
 9 minutes?
 10 A They didn't -- it didn't reflect the minutes.
 11 They just -- there was conversations where they
 12 said that there was an agreement that Edgewood
 13 could never put lights up. And the conversation
 14 that I had was that it was my understanding that
 15 the master plan changed that agreement.
 16 Q Okay. So do you recall which of the neighborhood
 17 associations or committees indicated to you that
 18 there was an agreement that Edgewood would not put
 19 up lights or a sound system?
 20 A I'm trying to think back to who was on the
 21 committee at the time. I believe it was Tom
 22 Huber. But that's -- I don't remember the other
 23 members.
 24 Q And when you -- when he indicated there was an
 25 agreement not to put up lights and a sound system,

<p style="text-align: right;">Page 61</p> <p>1 what was your response to him, if anything?</p> <p>2 A I said that -- I remember talking about the master</p> <p>3 plan as something new. That was a new agreement</p> <p>4 between the neighbors and the campus on how it was</p> <p>5 going to work.</p> <p>6 Q And what was Mr. Huber's response to that?</p> <p>7 A I don't -- I think it was just a casual</p> <p>8 conversation. I don't know that he even replied.</p> <p>9 Q Okay. Any other conversations with anyone else</p> <p>10 with regard to an agreement that Edgewood not put</p> <p>11 up lights and a sound system back in the Nineties?</p> <p>12 A No.</p> <p>13 Q I think you indicated that you were aware that the</p> <p>14 city changed and created -- changed the zoning and</p> <p>15 created the Campus-Institutional District in 2013;</p> <p>16 correct?</p> <p>17 A Correct.</p> <p>18 Q Were you involved at all in any of the discussions</p> <p>19 or meetings regarding that change?</p> <p>20 A "Any of." I was not involved in the architecture</p> <p>21 of the master plan. It was done before I got</p> <p>22 there.</p> <p>23 Q Okay. Do you know whether Edgewood was generally</p> <p>24 in favor of the changes to the zoning which</p> <p>25 created the Campus-Institutional zoning district?</p>	<p style="text-align: right;">Page 63</p> <p>1 look at page 40, for example, it appears that</p> <p>2 there was some sort of Post-It note on this</p> <p>3 copy with an arrow drawn on it. So it's not</p> <p>4 the same Exhibit 7.</p> <p>5 MS. ZYLSTRA: I printed it from</p> <p>6 the exhibits that were provided by the court</p> <p>7 reporter.</p> <p>8 MR. INGRISANO: Okay. So perhaps</p> <p>9 that may have been a modification, but --</p> <p>10 MS. ZYLSTRA: I want to use</p> <p>11 whatever is the correct exhibit.</p> <p>12 MR. INGRISANO: Sure. But it does</p> <p>13 block off part of the text of Exhibit 40.</p> <p>14 MS. ZYLSTRA: Okay. Can I --</p> <p>15 MR. INGRISANO: Page 40, Exhibit 7,</p> <p>16 for example.</p> <p>17 MS. ZYLSTRA: I don't have a</p> <p>18 Post-It on my copy.</p> <p>19 MR. INGRISANO: Page 40.</p> <p>20 MS. ZYLSTRA: I'm sorry. I was</p> <p>21 looking at the numbers up top.</p> <p>22 MR. INGRISANO: Bottom of the page.</p> <p>23 Bottom pagination.</p> <p>24 MS. ZYLSTRA: Do you have the</p> <p>25 original exhibits?</p>
<p style="text-align: right;">Page 62</p> <p>1 MR. INGRISANO: Objection. Form.</p> <p>2 A I don't know.</p> <p>3 Q Okay. Do you know whether anyone at Edgewood</p> <p>4 lobbied for those changes?</p> <p>5 MR. INGRISANO: Same objection.</p> <p>6 A I don't -- I don't know that.</p> <p>7 Q Okay. Did you -- Do you have any understanding as</p> <p>8 to the purpose of the change in zoning to the</p> <p>9 Campus-Institutional District?</p> <p>10 A No, I don't.</p> <p>11 Q Okay.</p> <p>12 MS. ZYLSTRA: You don't have to</p> <p>13 mark this one, Peggy. Sadly, I killed trees.</p> <p>14 MR. INGRISANO: Is that 7? Thanks.</p> <p>15 MR. STERETT: I'm good. You can</p> <p>16 spare me.</p> <p>17 Q Mr. Elliott, I'm showing you what's been marked in</p> <p>18 a previous deposition as Exhibit 7 and identified</p> <p>19 as the city approval and Edgewood's master plan.</p> <p>20 Can you at least take a look at that document</p> <p>21 and tell me whether you recognize that as such?</p> <p>22 MR. INGRISANO: Counsel, for the</p> <p>23 record, I would note that Exhibit 7 appears</p> <p>24 to have been modified since it was introduced</p> <p>25 at the first deposition. Specifically if you</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. INGRISANO: I do not.</p> <p>2 MS. ZYLSTRA: Well --</p> <p>3 MR. INGRISANO: Bottom left. There</p> <p>4 you go. Words are cut off, and there appears</p> <p>5 to be an arrow drawn there.</p> <p>6 MS. ZYLSTRA: Do you have your</p> <p>7 exhibits that were marked at the deposition?</p> <p>8 MR. INGRISANO: I have my working</p> <p>9 copy. I do not have the copies that were</p> <p>10 otherwise marked.</p> <p>11 MS. ZYLSTRA: All right. I will</p> <p>12 grab the one that you gave me at the hearing,</p> <p>13 and we'll have to use that. This is the</p> <p>14 exhibit that was given to me by the court</p> <p>15 reporter.</p> <p>16 MR. INGRISANO: And I'm not saying</p> <p>17 anything else on the record. I'm not</p> <p>18 accusing anyone of anything. I'm just noting</p> <p>19 that this Exhibit 7 appears to be different</p> <p>20 from the Exhibit 7 that I introduced at the</p> <p>21 deposition.</p> <p>22 MS. ZYLSTRA: Okay. Can we go off</p> <p>23 record for a moment?</p> <p>24 MR. HANSEN: Going off the record</p> <p>25 at 10:46.</p>

<p style="text-align: right;">Page 65</p> <p>1 (Recess)</p> <p>2 (Mr. Jean-Louis exited the</p> <p>3 proceedings)</p> <p>4 (Exhibit No. 52 marked for</p> <p>5 identification)</p> <p>6 MR. HANSEN: We're back on the</p> <p>7 record at 10:49.</p> <p>8 Q Okay. Mr. Elliott, I'm going to show you what's</p> <p>9 been marked as Exhibit 52. It also has just a</p> <p>10 handwritten in pencil Ex. 7 on the bottom. Do you</p> <p>11 see that?</p> <p>12 A I do.</p> <p>13 Q I'll represent to you that this is the Exhibit 7</p> <p>14 copy that was provided to me at an earlier</p> <p>15 deposition.</p> <p>16 I will also just state for the record that I</p> <p>17 believe the issue with the Exhibit 7 that was</p> <p>18 previously copied is that counsel had Mr. Tucker</p> <p>19 put Post-Its on his version and those Post-Its are</p> <p>20 the ones that were copied, so I do believe</p> <p>21 Exhibit 7 is actually the correct exhibit.</p> <p>22 Do you recognize Exhibit 52 as Edgewood's</p> <p>23 master plan with the city approvals?</p> <p>24 A With the number of pages here, I'm not positive</p> <p>25 every page is in here.</p>	<p style="text-align: right;">Page 67</p> <p>1 took effect; correct?</p> <p>2 MR. INGRISANO: Objection.</p> <p>3 Foundation. Go ahead.</p> <p>4 A I believe so.</p> <p>5 Q Okay. You were involved in the master plan</p> <p>6 process, correct, on behalf of Edgewood?</p> <p>7 MR. INGRISANO: Objection. Form.</p> <p>8 Vague as to "involved."</p> <p>9 A I was not. It was -- The construction of the</p> <p>10 document was prior to me being at Edgewood.</p> <p>11 Q Okay. What was your involvement with respect to</p> <p>12 the master plan?</p> <p>13 A Basically to sign the final document.</p> <p>14 Q Did you review it before you signed it?</p> <p>15 A To the best of my ability, not having been at any</p> <p>16 of the meetings.</p> <p>17 Q Okay. With respect to -- Let's turn to page 10</p> <p>18 of 228. And I'm looking at the paragraph that's</p> <p>19 numbered 1. Do you see that?</p> <p>20 A Uh-huh.</p> <p>21 Q It says that after the master plan has been</p> <p>22 revised to address any of the comments or</p> <p>23 conditions listed above, please file ten copies</p> <p>24 of the final plan with the Zoning Administrator,</p> <p>25 Room LL-100, Madison Municipal Building,</p>
<p style="text-align: right;">Page 66</p> <p>1 Q That's fine.</p> <p>2 A But it looks like the document.</p> <p>3 Q Generally. I'm going to refer to the page numbers</p> <p>4 at the top of the document. You see there is</p> <p>5 page 1 of -- or page 2 of 228. Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Okay. Can you turn to page 6 of 228.</p> <p>8 A I'm there.</p> <p>9 Q This is a letter from the city's plan division</p> <p>10 dated April 22, 2014; correct?</p> <p>11 A Correct.</p> <p>12 Q Okay. And with respect to -- Directing your</p> <p>13 attention to the first paragraph, the second</p> <p>14 sentence, it says, "These conditions of approval</p> <p>15 shall be satisfied prior to the master plan taking</p> <p>16 effect and the issuance of building permits for</p> <p>17 any of the projects contained in the plan." Did I</p> <p>18 read that correctly?</p> <p>19 A Where are you? I'm sorry.</p> <p>20 Q The first paragraph, the second sentence. "These</p> <p>21 conditions."</p> <p>22 A Yes. Okay. Sorry. I was looking at the</p> <p>23 beginning of the paragraph.</p> <p>24 Q Okay. There were a number of conditions that</p> <p>25 Edgewood had to satisfy before the master plan</p>	<p style="text-align: right;">Page 68</p> <p>1 215 Martin Luther King, Jr. Boulevard for</p> <p>2 circulation to the city department staff listed</p> <p>3 above for their final approval prior to the master</p> <p>4 plan taking effect. Do you see that, sir?</p> <p>5 A I do.</p> <p>6 Q Did you have an understanding that the master plan</p> <p>7 did not take effect until after Edgewood satisfied</p> <p>8 the conditions and filed the master plan with the</p> <p>9 city?</p> <p>10 MR. INGRISANO: Objection. Form.</p> <p>11 Foundation.</p> <p>12 A Correct.</p> <p>13 Q Okay. And turning two pages to page 12 of 228,</p> <p>14 the final signoff date for your master plan was</p> <p>15 November 6, 2015; correct?</p> <p>16 MR. INGRISANO: Objection.</p> <p>17 Foundation.</p> <p>18 A I am not sure on the signoff dates because there</p> <p>19 was some -- there was some time that elapsed while</p> <p>20 it was at the city.</p> <p>21 Q Okay. With respect to the master plan, are you</p> <p>22 aware that it was a document that was drafted by</p> <p>23 Edgewood?</p> <p>24 MR. INGRISANO: Objection.</p> <p>25 Foundation.</p>

Page 69

1 A So earlier you said Edgewood was going to be the
 2 high school and then --
 3 Q Fair clarification, sir, and I appreciate that.
 4 With respect to the Edgewood Campus Master
 5 Plan, it was drafted by members from all three of
 6 the schools at Edgewood; correct?
 7 MR. INGRISANO: Objection.
 8 Foundation.
 9 A I believe so, yes.
 10 Q Okay. Do you know which individuals at the
 11 Edgewood campus were involved in drafting the
 12 master plan? Do you know any of them?
 13 A The previous president.
 14 Q That was Mr. Schemmel?
 15 A Uh-huh.
 16 COURT REPORTER: Is that a yes?
 17 A Yes. I believe Maggie Balistreri was on the
 18 college. I'm not sure for the campus school. And
 19 there were possibly multiple people from those.
 20 Q Do you know whether anyone in the city was
 21 involved in the drafting of Edgewood's master
 22 plan?
 23 A I do not know that.
 24 Q Okay. Are the factual statements in Edgewood's
 25 master plan true and correct to the best of your

Page 70

1 knowledge?
 2 A Yes.
 3 Q Okay. Now, you participated on the 2013 Edgewood
 4 Neighborhood Liaison Committee on behalf of
 5 Edgewood High School; correct?
 6 MR. INGRISANO: Objection. Form.
 7 Vague as to time.
 8 A I believe that was the date I began on the
 9 committee.
 10 Q Do you recall in 2013 there being numerous
 11 meetings with the Dudgeon-Monroe Neighborhood
 12 Association and the Vilas Neighborhood Association
 13 regarding Edgewood's master plan?
 14 A There were meetings held between those groups,
 15 yes.
 16 Q Okay. And back in 2013 when you participated in
 17 these meetings, the neighborhood associations and
 18 neighbors of Edgewood were active in monitoring
 19 Edgewood's growth and use of its space; true?
 20 A True.
 21 Q Okay. And what was the purpose of the meetings
 22 between the neighborhood association and the
 23 Neighborhood Liaison Committee?
 24 A Discuss any issues that may have come up
 25 between -- that the neighbors wanted to bring to

Page 71

1 our attention.
 2 Q Okay. Any issues they were having with respect to
 3 what was going on at the Edgewood campus; correct?
 4 A Yes. The tough part was it was mostly about
 5 college issues with the kids coming home and maybe
 6 using the gate too late or something. It was very
 7 little substance with regards to the high school
 8 or the campus school.
 9 Q Did you understand, based on your role with the
 10 liaison committee, that it was important for
 11 Edgewood to try and work with the neighbors and
 12 the neighborhood association on getting agreement
 13 as to the language in the master plan?
 14 MR. INGRISANO: Objection.
 15 Foundation.
 16 A Yes.
 17 Q Okay. And both neighborhood associations voted to
 18 support Edgewood's master plan; correct? The 2014
 19 master plan?
 20 A I'm not aware of a vote that was held, but --
 21 (Exhibit No. 53 marked for
 22 identification)
 23 Q Sir, I'm showing you what's been marked as
 24 Exhibit 53. At the top is an email from you
 25 to Maggie Balistreri-Clarke; correct?

Page 72

1 A Correct.
 2 Q Okay. Do you recognize that as your email
 3 address?
 4 A My old one.
 5 Q Yes. This is an email that you sent in response
 6 to Maggie Balistreri's email to you dated
 7 January 23, 2014; correct?
 8 A Correct.
 9 Q And Maggie indicates to several people, including
 10 you and Carey, "Both Vilas and DMNA have now voted
 11 to officially support the Edgewood master plan.
 12 We're almost there!" Correct?
 13 A Correct.
 14 Q Okay. Does this refresh your recollection that
 15 both of the neighborhood associations voted to
 16 support the master plan?
 17 MR. INGRISANO: Objection.
 18 Foundation. Go ahead.
 19 A Yes.
 20 Q Thank you. Did you understand that, at the time
 21 when you were participating in these neighborhood
 22 meetings, that part of the process for getting
 23 approval of a master plan was that Edgewood needed
 24 to get the buy-in from the neighborhood?
 25 MR. INGRISANO: Objection. Form.

Page 73

1 Asked and answered. Go ahead.
2 A I don't know that I felt we had to have their
3 buy-in. I mean, there was issues we worked
4 together on and there were issues that we felt we
5 had the control to make ourselves.
6 Q Okay. Were you aware of whether the neighbors
7 raised any opposition to prior conditional use
8 permits of Edgewood prior to 2013?
9 A No.
10 Q Okay. That's, no, you're not aware; correct?
11 A No, I'm not aware.
12 Q Thank you. Going back to the master plan -- I'm
13 sorry. Forgive me. I've got to find the correct
14 page. I thought I had it marked.
15 Okay. If you'd turn to page 36 of 228.
16 A All right. I'm there.
17 Q This section 3.2 is headed Campus Plan; correct?
18 A Correct.
19 Q And skipping down to the third paragraph, it
20 identifies -- it says, "The numbers below
21 correspond to those on the Campus Plan - Future
22 Building site plan that follows this list." Do
23 you see that?
24 A Yes.
25 Q And if you turn the next couple pages, there are

Page 74

1 22 projects that the Edgewood campus has
2 identified as part of its master plan; correct?
3 MR. INGRISANO: Objection. Form.
4 Mischaracterizes the document.
5 A Correct.
6 Q Okay. And these are the 22 improvements, if you
7 will, that Edgewood intends to do in the ten-year
8 period of the master plan; correct?
9 A The identified projects at that time that the
10 campus would do.
11 Q Yes. Thank you, sir.
12 Okay. And I want you to turn to page 38 of
13 28.
14 A Of 228?
15 Q Yes. I'm sorry. Of 228.
16 A All right. Thanks.
17 Q And item number 17 identifies as an improvement
18 additional parking of 30 stalls; correct?
19 A Correct.
20 Q And 18 references revising parking layout for the
21 campus school; correct?
22 A Correct.
23 Q And it indicates it's going to add approximately
24 three parking stalls; correct?
25 A Correct.

Page 75

1 Q Okay. And 19 also identifies a revised parking
2 lot; correct?
3 A Correct.
4 Q Okay. So with respect to the improvements that
5 are identified, these are not just improvements to
6 buildings that are being identified in the master
7 plan; correct?
8 A It would be additions to existing spaces.
9 Q Okay. So my statement is correct, though, it's
10 not just buildings that are being identified as
11 improvements that are going to be made in the
12 master plan?
13 MR. INGRISANO: Objection. Form.
14 Foundation.
15 Q That is a bad question. Let me ask it again.
16 You agree with me that the 22 improvements
17 that are identified as going to be done as part of
18 your master plan includes things other than
19 buildings?
20 MR. INGRISANO: Objection. Form.
21 Vague.
22 A Yes.
23 Q Okay. Number 20 says existing curb cut to remain.
24 Do you know what that is referring to?
25 MR. INGRISANO: Objection.

Page 76

1 Foundation.
2 A I do not.
3 Q Okay. And just to be clear, I'm going to have you
4 turn the page to page 39 of 228. This is a map
5 that identifies the 22 items that we were
6 discussing on the three previous pages; correct?
7 A Yes.
8 Q Okay. So at least number 20 is identified on the
9 map. Do you see that?
10 A Well --
11 Q It's, I would say, over to the right middle on the
12 map, over by Monroe Street. Do you see that, sir,
13 the little 20 in the circle?
14 A Yes.
15 Q Okay. I don't know if that helps you to identify,
16 but do you know what the existing curb cutout is
17 in reference to that item on the map?
18 A So I'm seeing number 20 over here on the right
19 side, which would be Edgewood Avenue, not Monroe
20 Street.
21 (Mr. Jean-Louis reentered the
22 proceedings)
23 Q Oh, I'm sorry.
24 A So I --
25 Q I didn't know if the picture would help you

<p style="text-align: right;">Page 77</p> <p>1 identify. If your answer is you don't know what 2 the existing curb cut is, that's fine. I just 3 wanted to give you an opportunity to look at the 4 map in case that refreshed your recollection. 5 A I have no idea what 20 is. 6 Q Okay. Thank you. Number 8 on this refers to 7 Edgedome renovation or new facility. Do you see 8 that? 9 A Yes. 10 Q Now, Edgedome, as I understand it, is your indoor 11 athletic facility; correct? 12 A No. 13 Q What is Edgedome? 14 A It's the college and the campus school's facility. 15 Q Okay. Does the Edgewood High School use the 16 Edgedome at all? 17 A No. 18 Q Okay. And with respect to items 1 through 22 19 which involve improvements, there are none 20 identified or listed with respect to improvements 21 of an athletic field; correct? 22 MR. INGRISANO: Objection. Form, 23 foundation, mischaracterizes the document. 24 Q You can answer, sir. 25 A Can you repeat the question?</p>	<p style="text-align: right;">Page 79</p> <p>1 could turn the page to 48 of 228. In the third 2 bullet from the bottom on the first column, it 3 says, "Campus buildings require mechanical and 4 electrical equipment. That equipment, as well as 5 air inlets and outlets, make noise. Edgewood will 6 take steps to reduce mechanical equipment noise 7 that can be perceived by the neighborhood by 8 locating equipment away from the neighborhood. 9 Reasonable steps will be taken to ensure that 10 sound impact on the west side of Woodrow Street 11 will not exceed existing nighttime ambient noise 12 level in the neighborhood for comparable times." 13 Did I read that correctly? 14 A Yes. 15 Q Okay. And noise from mechanical and electrical 16 equipment was an issue that was raised by 17 neighborhood representatives at the liaison 18 committee; correct? 19 A Not at the meetings I was at. 20 Q Okay. Are you aware of the liaison committee 21 negotiating and addressing the mechanical and 22 electrical noise issues that appear in your 23 master plan? 24 A I am not. 25 Q Okay. Any reason to believe that's not an</p>
<p style="text-align: right;">Page 78</p> <p>1 MS. ZYLSTRA: Sure. Can you read 2 my question back? 3 (Question read) 4 MR. INGRISANO: Same objection. 5 A They are not on this list. 6 Q Thank you. Sir, if you could turn to the top page 7 number 47 of 228. 8 MR. INGRISANO: What page is that, 9 counsel? 10 MS. ZYLSTRA: 47 of 228. 11 MR. INGRISANO: Thank you. 12 Q And the top of that page says Site One Agreements; 13 correct? 14 A Yes. 15 Q And it says, "The following agreements created by 16 the Neighborhood Liaison Committee addresses 17 issues raised in conjunction with the site one 18 plans." Do you see that, sir? 19 A I do. I see it. 20 Q Okay. And this was the liaison committee that you 21 were a part of; correct? 22 A After I became president. 23 Q In 2013; correct? 24 A Yes. 25 Q Okay. And -- okay. I'm sorry. Okay. And if you</p>	<p style="text-align: right;">Page 80</p> <p>1 accurate recitation of the discussions with the 2 Neighborhood Liaison Committee? 3 MR. INGRISANO: Objection. 4 Foundation. Sorry. Objection. Foundation. 5 A I believe that was in reference to the buildings 6 along the -- in the college and that the 7 high school wasn't part of that discussion. 8 Q Okay. But even when you were having discussions 9 regarding the college, these were the same liaison 10 committee meetings that you attended. That is, 11 there weren't separate liaison committee meetings 12 with the grade school, with the high school, and 13 with the college. It was all together; correct? 14 A Not always. 15 Q Okay. 16 A The college met alone sometimes. It kind of 17 depended on whose project it was. If it was a 18 campus school project, we didn't tie up the 19 high school and the college. And if it was a 20 college project, the campus school and the 21 college -- whoever's project it was would meet 22 alone at times. 23 Q Okay. Were you aware of noise being an issue that 24 neighbors routinely raised with respect to changes 25 to Edgewood's space during your time?</p>

<p style="text-align: right;">Page 81</p> <p>1 MR. INGRISANO: Objection. Form.</p> <p>2 A Yes.</p> <p>3 Q Okay. Has Edgewood occasionally received noise</p> <p>4 complaints from neighbors?</p> <p>5 A Occasionally from neighbors.</p> <p>6 Q Okay. Going to the next bullet point on page 48</p> <p>7 there, it says, "Ensure that parking ramp interior</p> <p>8 and lighting is not visible from Woodrow Street at</p> <p>9 any time." Did I read that correctly?</p> <p>10 A Yes.</p> <p>11 Q Okay. And the visibility of lighting from</p> <p>12 Edgewood's campus was an issue for neighbors at</p> <p>13 various times; correct?</p> <p>14 MR. INGRISANO: Objection. Form.</p> <p>15 Vague.</p> <p>16 A Not to my understanding.</p> <p>17 Q Okay. Did you understand, based on your time with</p> <p>18 the Neighborhood Liaison Committee, that with</p> <p>19 respect to any improvements that Edgewood wanted</p> <p>20 to make that involved noise or lighting that could</p> <p>21 be seen by the neighbors, that such would pose</p> <p>22 concerns for the neighbor?</p> <p>23 MR. INGRISANO: Objection. Form.</p> <p>24 A I might say questions. They wanted to know,</p> <p>25 you know, what it was going to be and how it was</p>	<p style="text-align: right;">Page 83</p> <p>1 Q If you look at page 52 of 228, do you see that</p> <p>2 Dominican Hall is identified as building 14 and</p> <p>3 Marshall Hall is identified as building 16?</p> <p>4 A Yes.</p> <p>5 Q Are Dominican Hall and Marshall Hall buildings</p> <p>6 that relate to the college?</p> <p>7 A Yes.</p> <p>8 Q Okay. Those don't relate to the high school;</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q Okay. And with respect to pages 54, 55, and 56 of</p> <p>12 the master plan, those pages all relate to the</p> <p>13 resident halls and buildings 14 and 16 of the</p> <p>14 college, not the high school; correct?</p> <p>15 MR. INGRISANO: Objection.</p> <p>16 Foundation.</p> <p>17 A No. Some of those things were dumpsters and</p> <p>18 lighting and it was green strip buffer zones and</p> <p>19 things like that, and noise was for all of the</p> <p>20 schools, I believe.</p> <p>21 Q Okay. Going to the page 56 where it has</p> <p>22 mechanical and electrical equipment noise, I</p> <p>23 understood you to tell me that related to the</p> <p>24 college. Are you now telling me that that relates</p> <p>25 to both the college and the high school?</p>
<p style="text-align: right;">Page 82</p> <p>1 going to work.</p> <p>2 Q Okay. There -- Strike that.</p> <p>3 With respect to your master plan, this is a</p> <p>4 document that you signed on behalf of the</p> <p>5 high school; correct?</p> <p>6 A Yes.</p> <p>7 Q And by signing this document, you were agreeing to</p> <p>8 abide by it; correct?</p> <p>9 A Yes.</p> <p>10 Q Okay. I want you to turn to page 54 of 228. The</p> <p>11 heading there is Resident Halls and Buildings 14</p> <p>12 and 16. Correct?</p> <p>13 A Correct.</p> <p>14 Q When we refer to resident halls, are those</p> <p>15 referring to the college?</p> <p>16 A Correct.</p> <p>17 Q Okay. The high school doesn't have any resident</p> <p>18 halls; correct?</p> <p>19 A No.</p> <p>20 Q I'm sorry. I asked a double negative. My</p> <p>21 statement is correct?</p> <p>22 A Yes.</p> <p>23 Q Thank you. When we refer to buildings 14 and 16,</p> <p>24 do you know what those are referring to?</p> <p>25 A I don't.</p>	<p style="text-align: right;">Page 84</p> <p>1 MR. INGRISANO: Objection. Form.</p> <p>2 Mischaracterizes. That was a different</p> <p>3 provision.</p> <p>4 A Mechanical noise from equipment would be for all</p> <p>5 schools.</p> <p>6 Q Okay. So at least with respect to the mechanical</p> <p>7 and electrical equipment noise, you agree that's</p> <p>8 something that applied to all schools?</p> <p>9 A I would.</p> <p>10 Q All right. Go to page 55 of 228, please. As I</p> <p>11 understood your testimony, sir, you believe that</p> <p>12 the lighting section refers to both the college</p> <p>13 and the high school. Is that your understanding?</p> <p>14 A It is.</p> <p>15 Q All right. This indicates, "Outdoor lights,</p> <p>16 security box lights and other lights shall be</p> <p>17 carefully designed in conjunction with the green</p> <p>18 strip buffer zone and placed to minimize glare and</p> <p>19 spillage onto Edgewood (Park and Pleasure) Drive,</p> <p>20 the woods, and the boardwalk on Lake Wingra." Did</p> <p>21 I read that correctly?</p> <p>22 A You did.</p> <p>23 Q Okay. And let's turn to page 31. And I'm sorry.</p> <p>24 I apologize. I -- well, let me see which page I</p> <p>25 meant, the internal or the external.</p>

Page 85

1 MR. JEAN-LOUIS: 49?
 2 Q Actually, no. Turn to page 31 of 228.
 3 A I'm there.
 4 Q Are you there?
 5 A Yes.
 6 Q Okay. Page 31 of 228 has a diagram on it;
 7 correct?
 8 A Uh-huh. Correct.
 9 Q The lighting provision I just read referred to the
 10 green strip buffer zone and it referred to Park
 11 and Pleasure Drive, the woods, and the boardwalk.
 12 I want to try and figure out where that is on this
 13 map.
 14 At the bottom of the map there is a 7 in a
 15 building; correct?
 16 A I'm sorry. Say that again. At the bottom of the
 17 map there is a --
 18 Q At the bottom of the map --
 19 A -- 7 on a building?
 20 Q Yes. It's showing Lake Wingra and then a building
 21 with a number 7 in it; correct?
 22 A Correct.
 23 Q Okay. With regard to the green strip buffer zone
 24 and the Park and Pleasure Drive, that's referring
 25 to the area that is by -- that is along

Page 86

1 Lake Wingra and by the building that says
 2 number 7; correct?
 3 A Correct.
 4 Q Okay. And so in reference to that light glare, it
 5 involved the path that is along Lake Wingra;
 6 correct? That's what the concern was?
 7 A In this document, based on the description, I
 8 would say it meant that area. However, we felt --
 9 we thought we -- we knew we had to follow the city
 10 ordinance guidelines, as any building project, for
 11 it to be approved.
 12 Q Sure. But that's what the reference is at least
 13 in your master plan document, is to the area
 14 that's down along the path of Lake Wingra? Right?
 15 A Yes.
 16 Q Okay. Turning to page 57 of 228, the heading
 17 there is 3.6 Architectural Guidelines for
 18 Perimeter Buildings; correct?
 19 A Correct.
 20 Q And at the top of 58 there is a paragraph 7, Site
 21 and Building Lighting; correct?
 22 A Correct.
 23 Q And this was relating to lighting for safety for
 24 perimeter buildings; correct?
 25 MR. INGRISANO: Objection.

Page 87

1 Foundation. Form.
 2 A On 7, are you talking about?
 3 Q Correct.
 4 A Yes.
 5 Q Okay. Now, if you'd turn to page 77 of 228. The
 6 heading is 4.3, Affirming Past Agreements, and it
 7 says, "This section identifies agreements made
 8 between 1997-2013 to be reaffirmed and updated as
 9 part of the 2013 master plan." Did I see that --
 10 did I read that correctly?
 11 A Yes.
 12 Q Okay. You understood as part of signing off on
 13 this master plan that there were a number of prior
 14 agreements that were being reaffirmed and
 15 incorporated as part of your master plan; correct?
 16 A Correct.
 17 Q Okay. And turning to the next page at paragraph
 18 numbered 4, one of the prior agreements that was
 19 being reaffirmed or that's being identified is
 20 The Stream and its lighting on the west side of
 21 the building. Do you see that, sir?
 22 A I see that.
 23 Q Do you know what The Stream is?
 24 A I believe it's the new art building.
 25 Q Okay. And the paragraph there indicates,

Page 88

1 "Motorized perforated fabric shades will be
 2 maintained on the west side of the building within
 3 the studio spaces to cut down on nighttime
 4 spillage of internal light." It says, "The shade
 5 fabric will have 1 percent transparency. The
 6 blinds will continue to be on a timer to
 7 automatically lower in the evenings." Did I read
 8 that correctly?
 9 A Yes.
 10 Q Okay. And with respect to the lighting on that
 11 building, were the implementations of the shades
 12 and the blinds because neighbors were raising
 13 concerns about the nighttime spillage of internal
 14 light?
 15 MR. INGRISANO: Objection.
 16 Foundation.
 17 A I was not any part of any of those meetings.
 18 Q Okay. But at least you agree that that was
 19 something that Edgewood agreed to, to reaffirm and
 20 do as part of your master plan?
 21 A I -- they -- I don't know if that -- well, it's in
 22 the master plan, so your question is was that
 23 something that was in the master plan. Yes, it
 24 was something that was in the master plan as far
 25 as the agreements.

<p style="text-align: right;">Page 89</p> <p>1 Q Okay. And continuing on to the top of the next 2 column, it says, Interior Lighting. Do you see 3 that, sir? 4 A I do. 5 Q And it says, "Occupancy sensors are used in 6 classrooms and offices. There is no direct glare 7 from fixtures on the south side of the building 8 facing Edgewood (Park and Pleasure) Drive." Did I 9 read that correctly? 10 A Yes. 11 Q Okay. And then going down three or four 12 paragraphs, there is a heading Parking Lot 13 Lighting at The Stream. Do you see that? 14 A Yes. 15 Q And it says, "No acorn-type lighting is used. 16 Lights on poles have cutoff housings, and bollards 17 have shields on the west sides to prevent glare 18 into the neighborhood." Did I read that correctly? 19 A Yes. 20 Q Okay. With respect to your master plan, there was 21 repeated concerns from neighbors with regard to 22 wanting to minimize the impacts from the lighting 23 from the Edgewood campus onto the neighborhood; 24 correct? 25 MR. INGRISANO: Objection. Form.</p>	<p style="text-align: right;">Page 91</p> <p>1 A Yes. 2 Q Did some of the communications in 2013 from the 3 neighbors relate to trying to minimize the impacts 4 of lighting at Edgewood's campus? 5 A It depends what you mean. I tried to explain 6 minimize, meaning keeping it on our campus, that 7 the cutoff -- the city ordinance says the cutoff 8 has to be at the property line, and that was the 9 premise I was going by. 10 Q Right. But at least there were some 11 communications with the neighbors at the liaison 12 committee that you were involved in in 2013 where 13 the issue of lighting was being discussed? 14 A Correct. 15 Q Okay. And the neighbors at the time in 2013 when 16 the lighting was being discussed were raising 17 their desire to not have lighting at Edgewood 18 spill into the neighborhood? 19 MR. INGRISANO: Objection. Form. 20 A That was always a debate, because there was -- we 21 always felt that we had to keep it on our property 22 line. I mean, that's -- a city ordinance is for 23 everybody in the city, and we were trying to 24 follow what everybody else had to, not trying to 25 be treated differently, and so the discussions,</p>
<p style="text-align: right;">Page 90</p> <p>1 Vague as to time. Foundation. 2 A I had no specific -- there were conversations 3 where liaison members mentioned to me that they 4 wanted to keep lights -- the lighting on our 5 campus, which to me meant following the city 6 ordinances regarding lights and that the cutoff 7 was on our campus, that they didn't want it going 8 into their front yards or their back yards or 9 their housing. So, you know, if we were to do 10 things, all of this was designed to keep it on our 11 campus. 12 Q Okay. And some of those conversations occurred 13 at the time in 2013 with your involvement with the 14 liaison committee and the master plan; correct? 15 A Not in the building of the master plan, in these 16 guidelines, but after I was on the liaison 17 committee as the president. 18 Q Were some of those communications in 2013? 19 A No. I didn't really have much say. I wasn't 20 officially the president until -- I mean, most of 21 this document was done when I -- before I had 22 conversations with them. 23 Q Okay. Separate from the document, you were on the 24 liaison committee in 2013 after you were hired by 25 Edgewood; correct?</p>	<p style="text-align: right;">Page 92</p> <p>1 there wasn't agreement. There was a conversation 2 always about it because Edgewood felt it had the 3 same rights for building that anybody else had. 4 And as long as we followed the ordinances, that we 5 could do -- that our plans should be approved like 6 anybody else's. 7 Q Fair. So back in 2013 when there were discussions 8 about lighting at the neighborhood association and 9 liaison committee meetings, there was discussion 10 about what could and could not be done with 11 respect to lighting. But the neighbors at least 12 were raising their desire or that they didn't want 13 light from Edgewood to spill into the neighborhood? 14 A They -- yes. They had a concern of it spilling 15 into the neighborhood. 16 MR. INGRISANO: Okay. Counsel, can 17 we take five? 18 MS. ZYLSTRA: Sure. 19 MR. HANSEN: Going off the record 20 at 11:36. 21 (Recess) 22 MR. HANSEN: We're back on the 23 record at 11:51. 24 Q Mr. Elliott, given the debate that you described 25 between you and the neighbors at the liaison</p>

<p style="text-align: right;">Page 93</p> <p>1 committee back in 2013, do you agree it would have 2 been less likely for the neighborhood associations 3 to support Edgewood's master plan if it included 4 stadium lights and an athletic stadium? 5 MR. INGRISANO: Objection. Form. 6 Mischaracterizes his prior testimony. Go 7 ahead. 8 A I have no idea. 9 Q Okay. 10 (Exhibit No. 54 marked for 11 identification) 12 Q I'm sorry, sir. If you want to pile that 13 together, you don't even have to do the clip. 14 We'll figure it out for you. 15 A All right. 16 Q I'm showing you what's been marked as Exhibit 54. 17 I'll give you a minute to take a look at that 18 document. 19 MR. INGRISANO: 54? 20 MS. ZYLSTRA: Yes. 21 MR. INGRISANO: Thank you. 22 Q The first page of Exhibit 54 is an email from 23 Maggie Balistreri-Clarke dated December 5, 2013; 24 correct? 25 A Correct.</p>	<p style="text-align: right;">Page 95</p> <p>1 it was up to me and Sister Kathleen to review what 2 we were putting in there for our areas, for our 3 schools. 4 Q Okay. So with respect to the drafts of the master 5 plan, you reviewed anything having to do with the 6 high school; correct? 7 A Yes. 8 Q Okay. And if you look at the bottom, there is a 9 series of numbers, sir, that say EHS and then a 10 number. Can you turn to the page that says 1839? 11 Let me rephrase. That's not the right page. Give 12 me one moment, sir. 13 Oh, yeah. I'm sorry. It is 1839. I 14 apologize. Are you there, sir? 15 A Yes. 16 Q And the last line of page 1839 says, Open Space 17 Plan - Landscaping and Green." Correct? 18 A Correct. 19 Q And then turning the page, for number 1, it says, 20 "Athletic field owned by Edgewood High School. 21 Used for team practices, physical educations 22 classes, and other general light uses." Do you 23 see that, sir? 24 A I do. 25 Q Did you provide that language for the master plan?</p>
<p style="text-align: right;">Page 94</p> <p>1 Q And you're one of the recipients of this email; 2 correct? 3 A I am. 4 Q And it's addressed to, I assume that's 5 Sister Kathleen, yourself, and Scott Flanagan; 6 correct? 7 A Yes. 8 Q Okay. And the email begins, "Thank you for your 9 submissions to the campus master plan." Correct? 10 A Yes. 11 Q And were you involved in submissions to the master 12 plan back in 2013? 13 A No. 14 Q Okay. The next sentence says, "Here is a draft of 15 Chapters 1-3 compiled by Ed Taylor." Correct? 16 A Correct. 17 Q Who is Ed Taylor? 18 A Ed works for the college. 19 Q Okay. So while you may not have been involved in 20 the drafting of the master plan, you were involved 21 in receiving and reviewing drafts of the master 22 plan; correct? 23 A Anything that I reviewed of the master plan was 24 only the high school. I didn't -- The college 25 really wrote this document, for the most part, and</p>	<p style="text-align: right;">Page 96</p> <p>1 A I did not. 2 Q Do you know who did? 3 A I don't. 4 Q Okay. With respect to Edgewood's final master 5 plan, the language "and other general light uses" 6 is struck, or no longer in the master plan. Are 7 you aware of that, sir? 8 MR. INGRISANO: Objection. Form. 9 A I am aware looking at this now that that's not in 10 there. 11 Q Okay. Do you know who removed that language, the 12 "and other general light uses?" 13 A No, I don't. 14 Q Do you know why that language was removed? 15 MR. INGRISANO: Objection. Form. 16 Vague. Go ahead. 17 A I know that there was examples provided for 18 different uses of buildings and of spaces. This 19 document wasn't ever intended to -- from my 20 understanding, ever intended to list every single 21 use that might happen on a field or on a classroom 22 or on a chapel because we use them all for -- 23 we're space challenged, and so everything is used 24 for many different things. I don't know if the 25 college struck that. I don't know if the</p>

<p style="text-align: right;">Page 97</p> <p>1 high school struck that.</p> <p>2 Q Okay. So my question, original question was do</p> <p>3 you know why that language was removed? I take</p> <p>4 it from your answer that you do not. Is that</p> <p>5 correct?</p> <p>6 A I do not.</p> <p>7 Q All right. You said you knew that examples were</p> <p>8 provided. What are you referring to when you say</p> <p>9 examples were provided?</p> <p>10 A I know in the final master plan there was some</p> <p>11 defined uses of all the different spaces.</p> <p>12 Q And how does that relate to examples were</p> <p>13 provided? I guess I'm not clear.</p> <p>14 A Examples of their use.</p> <p>15 Q Okay. So you're not suggesting that -- or are</p> <p>16 you, that sample master plans were provided to</p> <p>17 Edgewood?</p> <p>18 MR. INGRISANO: Objection. Form.</p> <p>19 A No.</p> <p>20 Q Okay.</p> <p>21 A When I say samples, it was samples of the usage of</p> <p>22 spaces throughout the, you know, whether it was an</p> <p>23 art room or whether it was a chapel, whether it</p> <p>24 was -- I mean, when there was different spaces,</p> <p>25 they had talked about what they were used for as</p>	<p style="text-align: right;">Page 99</p> <p>1 appears, the only two items in that paragraph are</p> <p>2 "used for team practices and physical education</p> <p>3 classes." Correct?</p> <p>4 MR. INGRISANO: Objection. Form.</p> <p>5 Rule of completeness.</p> <p>6 A Say that again, please.</p> <p>7 Q Sure. Let me do it this way. I'm sorry. I can't</p> <p>8 find it. Do you have the internal page?</p> <p>9 MR. JEAN-LOUIS: I'm looking, but</p> <p>10 not off the top of my head.</p> <p>11 Q Give me a moment. We need better page numbering.</p> <p>12 I've got it.</p> <p>13 Sir, I'm showing you what is page 60 of 228</p> <p>14 of Exhibit 52. Do you see that?</p> <p>15 A Yes.</p> <p>16 Q And at paragraph 1, can you read in what that</p> <p>17 paragraph says?</p> <p>18 A "Athletic field owned by Edgewood High School.</p> <p>19 Used for team practices, physical education</p> <p>20 classes."</p> <p>21 Q Okay. And comparing that to Exhibit 54,</p> <p>22 paragraph 1, it's the same except for "and other</p> <p>23 general light uses" is removed and the "physical</p> <p>24 education classes" is changed to "physical</p> <p>25 education classes." Correct?</p>
<p style="text-align: right;">Page 98</p> <p>1 examples or samples of that. Not sample master</p> <p>2 plans.</p> <p>3 Q Were drafts of Edgewood's master plan provided to</p> <p>4 the Neighborhood Liaison Committee for review?</p> <p>5 A I don't know.</p> <p>6 Q Okay. Do you know whether the Neighborhood</p> <p>7 Liaison Committee or the neighborhood associations</p> <p>8 objected to the "and other general light uses"</p> <p>9 that appears in this draft?</p> <p>10 A I don't.</p> <p>11 Q Okay. In any event, you agree that Edgewood</p> <p>12 decided to narrow the language in the final master</p> <p>13 plan to just "Athletic field owned by Edgewood</p> <p>14 High School. Used for team practices and physical</p> <p>15 education classes"?</p> <p>16 MR. INGRISANO: Objection. Form.</p> <p>17 Foundation. Go ahead.</p> <p>18 A I don't know that they limited that.</p> <p>19 Q Well, you agree that this language that's in</p> <p>20 bullet -- or that's in paragraph numbered 1 is</p> <p>21 different than in your final master plan?</p> <p>22 A Yes.</p> <p>23 Q Okay. And you agree that in the master plan</p> <p>24 language -- in the master plan where this language</p> <p>25 "Athletic field owned by Edgewood High School"</p>	<p style="text-align: right;">Page 100</p> <p>1 A Yes.</p> <p>2 Q Thank you. Okay. We're all set with that</p> <p>3 document. Thank you.</p> <p>4 (Exhibit No. 55 marked for</p> <p>5 identification)</p> <p>6 Q I'm showing you, sir, what's been marked as</p> <p>7 Exhibit 55. This is an email from Maggie</p> <p>8 Balistreri-Clarke to several people, of which</p> <p>9 you're one of the recipients, dated October 10,</p> <p>10 2013; correct?</p> <p>11 A Correct.</p> <p>12 Q Okay. And I'll give you a second to review that</p> <p>13 email. Have you had a chance to look at that,</p> <p>14 sir?</p> <p>15 A Yes.</p> <p>16 Q Okay. In the first paragraph, Ms. Balistreri-</p> <p>17 Clarke indicates that she and Doug Hursh met with</p> <p>18 the city alder, Sue Ellingson, and members of the</p> <p>19 city planning staff, to share Edgewood's progress</p> <p>20 on its master plan and to present Edgewood's</p> <p>21 proposed process for an architectural design</p> <p>22 review committee; correct?</p> <p>23 A That's what it states.</p> <p>24 Q Okay. And with respect to Doug Hursh, do you know</p> <p>25 who he is?</p>

<p style="text-align: right;">Page 101</p> <p>1 A He was an architect at Potter Lawson. 2 Q Okay. And Ms. Balistreri-Clarke indicates that, 3 in the second paragraph, that she was working with 4 Mr. Hursh to streamline the process; correct? 5 A Correct. 6 Q And the last sentence in that paragraph she 7 writes, "I am hopeful that having a dramatically 8 streamlined building approval process will be a 9 major benefit of our campus-institutional zoning." 10 Did I read that correctly? 11 A Yes. 12 Q And she says -- I'm sorry. In the sentence before 13 that, it's with regard to streamlining the 14 process, but she's saying, "in the future we will 15 not hold open meetings and we will not seek the 16 approval of the two neighborhood associations." 17 Do you see that, sir? 18 A I do. 19 Q Okay. And did you understand that that was the 20 benefit of the master plan process, that is, that 21 Edgewood would not have to hold open meetings and 22 seek approval of the two neighborhood associations 23 when it wanted to make improvements to its 24 property to the extent those were identified in 25 the master plan?</p>	<p style="text-align: right;">Page 103</p> <p>1 conclusion. Lack of foundation. 2 MS. ZYLSTRA: I'll rephrase. 3 Q Back in 2013 and when you were involved as a 4 member of the Neighborhood Liaison Committee and 5 involved in these emails with Maggie Balistreri- 6 Clarke as to the master plan process, did you 7 understand that one of the benefits of the master 8 plan process is that Edgewood could avoid open 9 meetings and seeking approval of two neighborhood 10 associations when it wanted to change buildings 11 and uses on its property? 12 MR. INGRISANO: Objection. Form, 13 foundation. Calls for a legal conclusion. 14 A I did not really focus in on or understand that 15 building benefit, because Edgewood High School had 16 not built something since 1967 and the college was 17 continually building new projects, and that's why 18 they were, for the most part, wording this 19 document or building this document. 20 As president I was aware of that, but I 21 wasn't focusing on it at the time because we had 22 really not any buildings that we were thinking of 23 building at that time. 24 Q Okay. So you had no understanding, if I'm 25 understanding you, back in 2013 that Edgewood</p>
<p style="text-align: right;">Page 102</p> <p>1 MR. INGRISANO: Objection. Form. 2 Foundation. Go ahead. 3 A Not at the time. 4 Q Do you understand that now from looking at this 5 email? 6 MR. INGRISANO: Objection. Form. 7 Foundation. It calls for speculation. 8 A I don't remember this email. The college and the 9 architect, as I said earlier, worked very closely 10 together on this plan and writing this plan, and 11 there were many meetings and many times when the 12 high school and the campus school were pretty much 13 told what had happened. 14 Q Okay. With respect to Ms. Balistreri-Clarke and 15 her role in the master plan process, did you find 16 that when she shared information with you that it 17 was generally truthful and accurate? 18 A Generally. 19 Q Okay. Did you understand that without the master 20 plan that Edgewood needed to hold open meetings 21 and seek approval of the neighborhood associations 22 for instances in which it wanted to improve its 23 property? 24 MR. INGRISANO: Objection. Form. 25 Vague as to time. Calls for a legal</p>	<p style="text-align: right;">Page 104</p> <p>1 would need to seek city approval with respect to 2 each one of the projects that it wanted to undergo 3 related to changing its building and uses? 4 MR. INGRISANO: Objection. Form. 5 Mischaracterizes. Foundation. Go ahead. 6 A This was -- I was brand new in the job at this 7 time, and that was not part of what I was focusing 8 on or learning about. So I had not really dove 9 into the master planning process because I hadn't 10 been around when it was written. 11 It was a document that I signed because I had 12 the title of president at the time I took over, 13 and so I was not -- I mean, I understood the 14 basics, but I wasn't paying attention to the 15 basics at this time because I was not planning on 16 doing a building project. 17 Q Fair enough, sir. Given all that you've learned 18 since that time, do you have any reason to 19 disagree or dispute Ms. Balistreri-Clarke's -- 20 the substance of her email here? 21 A I think one of the major reasons that the master 22 plan is no longer is because we were promised that 23 was going to be the case and it would make it much 24 easier to build, but it didn't get any easier with 25 the neighbors. The process was not streamlined,</p>

Page 105

1 and it was very difficult to, not so much by the
 2 city, but by the neighbors, to get anything done.
 3 Everything was complained about.
 4 Q Well, there were a number of projects that were
 5 in Edgewood's master plan that were completed;
 6 correct?
 7 A Correct.
 8 Q And what were some of those projects that were in
 9 the master plan that were completed?
 10 A The performing arts center at the high school.
 11 Q With respect to the fine arts addition to the
 12 high school, did you need to go through any
 13 conditional use or other process to get that
 14 addition done?
 15 MR. INGRISANO: Objection. Form.
 16 Vague as to "other process."
 17 A We did go through the master plan process for that
 18 building.
 19 Q Okay. And what was the master plan process for
 20 that building?
 21 A To have the neighborhoods and myself work on the
 22 details for the project and get approval of the
 23 two neighborhoods prior to taking it to the city.
 24 Q Okay. And what was -- did the neighborhoods
 25 approve the fine arts addition?

Page 106

1 A They did.
 2 Q And was it an architectural design review
 3 committee process that was necessary for the
 4 approval?
 5 A Yes.
 6 Q Did it need to go to the Plan Commission or the
 7 Common Council?
 8 A It did not.
 9 Q Okay. In that respect it was streamlined. That
 10 is, that there was no Plan Commission or Common
 11 Council approval needed; correct?
 12 MR. INGRISANO: Objection. Form.
 13 A It was -- there were less steps. I wouldn't
 14 say -- I mean, we still had to go through the
 15 city. We still had to go through the neighbors.
 16 And between those two, it was still a difficult
 17 process.
 18 Q With respect to -- do you know whether prior to
 19 2013, whether the fine arts addition would have
 20 required Plan Commission approval?
 21 A I don't know.
 22 Q Okay. Do you know how many projects Edgewood was
 23 able to complete under the architectural design
 24 review committee process connected with your
 25 master plan?

Page 107

1 MR. INGRISANO: Objection. Form.
 2 Are you talking about the high school again
 3 or the college?
 4 Q Yes. I will focus at the high school first.
 5 A The fine arts wing, and I believe the elevator.
 6 Q And what about parking?
 7 A I'm not sure of that process that the extra stalls
 8 went through.
 9 Q Okay. With respect to the number of projects
 10 identified in the master plan, how many related to
 11 the high school versus either the college or the
 12 grade school campus?
 13 A I believe four. Three or four.
 14 Q Okay. And if you want to look, sir, I apologize.
 15 I should have asked you that when you saw it. The
 16 projects, sir, start on page 36 through 38 of 228,
 17 if that helps you.
 18 COURT REPORTER: Hold on. He's
 19 marking on it.
 20 A Oh, sorry.
 21 Q That's okay, sir.
 22 A I only did one.
 23 Q No, that's fine. If you want to mark on it, it's
 24 okay. Just go ahead and do that. We'll identify
 25 for the record that you're doing that.

Page 108

1 A I believe four.
 2 Q Okay. And using the numbers 1 through 22 that
 3 appear on pages 36 through 38 of 222, can you
 4 identify by number which are the four?
 5 A 11, 11a, 11b, and 12.
 6 Q Okay. And out of those, which ones were
 7 completed.
 8 A 12 and 11b.
 9 Q Okay. So two out of the four of the improvements
 10 that the high school has in the Edgewood campus
 11 master plan were completed under the architectural
 12 design review process associated with the master
 13 plan; correct?
 14 A Yes. Can I just look at the map, because I'm not
 15 sure if this one parking one was ours or not.
 16 Q Sure. I believe there is a map of the 22 on
 17 page 39 of 228 if that's of assistance to you,
 18 sir.
 19 A That was not our parking addition.
 20 Q Okay. Thank you, sir.
 21 MS. ZYLSTRA: Counsel, I'm about to
 22 move on to another subject and it's 12:17. I
 23 assume --
 24 MR. INGRISANO: Yes.
 25 MS. ZYLSTRA: We'll take a short

<p style="text-align: right;">Page 109</p> <p>1 break for lunch and come back around 1:00. 2 MR. INGRISANO: 1:00, thank you. 3 MS. ZYLSTRA: Thank you. 4 MR. HANSEN: Going off the record 5 at 12:17. 6 (Lunch recess) 7 (Exhibit No. 56 marked for 8 identification) 9 MR. HANSEN: We're back on the 10 record at 1:04. 11 Q Mr. Elliott, is Maggie Balistreri-Clarke still the 12 president of Edgewood College? 13 A No. She never was. 14 Q What was her position at Edgewood College? 15 A I don't know her position. 16 Q Do you know -- 17 A I don't know what her official position was. 18 Q Do you know, is she still at Edgewood College in 19 some capacity? 20 A I don't think so. 21 Q Okay. Do you know where she lives? 22 A I don't. 23 Q Do you know if she's in the Madison area? 24 A I don't. 25 Q Okay.</p>	<p style="text-align: right;">Page 111</p> <p>1 A Yes. 2 Q Okay. And do you know who Mr. Tierney was? 3 A He's I believe a past parent. 4 Q Okay. And just to orient you, if you go to the 5 second page, Mr. Hartlieb has an email that's to 6 several members, including Mr. Tierney, dated 7 October 9, 2018; correct? 8 A Yes. 9 Q And I'll give you a second to review that, but 10 Mr. Hartlieb is looking for those individuals to 11 support Edgewood's efforts to bring seating and 12 lights to its athletic field; correct? 13 A I just want to read through it. Yes. 14 Q Okay. Now, going back to the first page, 15 Mr. Tierney wrote to Mr. Hartlieb, and I'm going 16 to paraphrase and not read the whole thing, but he 17 says he would like to support this effort but he 18 has a concern that he believes would be better 19 answered by you; correct? 20 MR. INGRISANO: Objection. Form. 21 Mischaracterizes the document. 22 Q All right. I'll read it in. 23 Mr. Elliott, the first paragraph of the email 24 from Jim Hartlieb to Tom Tierney says, "I would 25 very much like to support this effort but have a</p>
<p style="text-align: right;">Page 110</p> <p>1 MR. INGRISANO: 56? 2 MS. ZYLSTRA: 56. 3 Q Mr. Elliott, I'm showing you what's been marked as 4 Exhibit 56. And at least according to the top 5 page of the document this is an email from Jim 6 Hartlieb to you dated October 9 of 2018; correct? 7 A Correct. 8 Q And Mr. Hartlieb was on Edgewood's Board of 9 Trustees at the time; correct? 10 A I don't think Mr. Hartlieb was on our Board of 11 Trustees. 12 Q Okay. What was Mr. Hartlieb's relationship to 13 Edgewood, if you know? 14 A I believe just parent. 15 Q Okay. Was there a period of time where he was on 16 the Board of Trustees? 17 A He was on what we would call a committee to work 18 on the lights. So he was a committee member. 19 Q Okay. 20 A A parent and a committee member. 21 Q Thank you. Okay. And I want to start with the 22 bottom email and then go to the top email. The 23 bottom email on the first page of Exhibit 56 is 24 from a Thomas Tierney to Jim Hartlieb dated 25 October 9, 2018; correct?</p>	<p style="text-align: right;">Page 112</p> <p>1 concern that may or may not be well-founded. This 2 is probably better answered by Michael Elliott." 3 Did I read that correctly? 4 A Yes. 5 Q He next says, in the next paragraph, "I was on the 6 high school board at the time of the crafting of 7 the master plan. I testified at the City Council 8 at the time. The battle was very contentious and, 9 as I recall, the college was more the bad guy than 10 the high school when it came to the master plan." 11 Did I read that correctly? 12 A Yes. 13 Q Okay. Next paragraph. "I recall (remember that 14 I am old) that part of the master plan was that 15 there would not be the elements of a stadium on 16 the site of the football field. I may be wrong on 17 this and would be welcome to any clarification on 18 his." (sic) Did I read that correctly? 19 A Yes. 20 Q Okay. And he says, "As a participant in the 21 'formation' of the original master plan," if we 22 did not agree -- excuse me, "if we did agree not 23 to expand the football field to a stadium I would 24 not be an active supporter of the expansion. If 25 my recollection is wrong, then I would happily be</p>

Page 113

1 on board." Did I read that correctly?
 2 A Yes.
 3 Q Okay. And the last is, "Perhaps, Jim, you could
 4 forward my concern to Mike who is likely in the
 5 best position to clarify for me." Did I read that
 6 correctly?
 7 A Yes.
 8 Q All right. Mr. Hartlieb does indeed forward this
 9 email to you; correct? At the top of the page?
 10 A Yes.
 11 Q Okay. And Mr. Hartlieb writes to you, "Good
 12 feedback from Tom. Smart, reasonable, respected
 13 person. It would do us good to respond (Mike -
 14 email should come from you) to him with very
 15 specific references to what WAS," in all caps,
 16 "approved (ie what he 'testified') and what we are
 17 seeking amendments to. I think this is the
 18 strongest argument the opposition has, so this
 19 will be good practice for us." Did I read that
 20 correctly?
 21 A Yes.
 22 Q Okay. First of all, did you ever respond to
 23 Mr. Tierney?
 24 A I don't recall.
 25 Q Did you ever respond to Mr. Hartlieb's email?

Page 114

1 A I don't recall.
 2 Q Do you recall receiving this email in which
 3 Mr. Tierney suggests that at the time of the
 4 crafting of the master plan there was an agreement
 5 not to expand the football field to a stadium?
 6 MR. INGRISANO: Objection. Form.
 7 Foundation. Vague as to time.
 8 A I don't recall these emails.
 9 Q Okay. Do you recall the issue in 2008 coming up
 10 about whether or not Edgewood agreed not to expand
 11 the football field to a stadium at the time of the
 12 crafting of the master plan?
 13 MR. INGRISANO: Objection. Form.
 14 2008?
 15 MS. ZYLSTRA: I'm sorry. 2018.
 16 Thank you for the correction. Let me
 17 rephrase the question.
 18 Q Do you recall in 2018 a discussion at all about
 19 whether Edgewood had agreed not to expand the
 20 football field to a stadium?
 21 MR. INGRISANO: Objection. Form.
 22 Vague as to time. We've talked about two
 23 master plans already today.
 24 A Yeah, I don't know. I don't recall.
 25 Q Do you know when Mr. Tierney was on the

Page 115

1 high school board?
 2 A No.
 3 Q Do you remember at all being concerned when you
 4 received this email?
 5 MR. INGRISANO: Objection. Form.
 6 Asked and answered.
 7 A I was receiving a lot of emails on the process,
 8 and I don't remember this being one I responded
 9 to.
 10 Q Okay. Do you recall doing any investigation at
 11 all in late 2018 as to whether there was ever an
 12 agreement not to expand the football field into a
 13 stadium per any prior master plan of Edgewood?
 14 A I did not do any investigation.
 15 Q Do you know if anyone at Edgewood did?
 16 A I don't know that.
 17 Q Okay. You agree, though, this was an email that
 18 you received; correct?
 19 A I can't say I remember receiving it. I can say
 20 that this is my name, that it was sent to me.
 21 Q Okay. Thank you, sir.
 22 (Exhibit No. 57 marked for
 23 identification)
 24 Q Sir, I'm showing you what's been marked as
 25 Exhibit 57. I'm going to represent to you -- or

Page 116

1 let's do it this way.
 2 At least on the first page, this appears to
 3 be an article from the Wisconsin State Journal
 4 dated June 15, 2015; correct?
 5 A Correct.
 6 Q Okay. And just for your orientation, sir, the
 7 first two pages are the article as it exists in
 8 the actual newspaper. But for potentially your
 9 eyesight and mine, I've attached the same article
 10 but printed out from the internet so it might be
 11 easier to read. Do you see that, sir?
 12 A I do.
 13 Q So if you look on the third page, it has at the
 14 top left June 15, 2015, Wisconsin State Journal?
 15 A Yes.
 16 Q Okay.
 17 MR. INGRISANO: Counsel, just a
 18 question on foundation. Page 1 of
 19 Exhibit 57, that title, are you saying that
 20 that's from the Wisconsin State Journal?
 21 MS. ZYLSTRA: Not the title. Not
 22 the title. Just the picture.
 23 MR. INGRISANO: Okay.
 24 MS. ZYLSTRA: But that's the only
 25 version of the document I have.

<p style="text-align: right;">Page 117</p> <p>1 Q Okay, sir. In terms of the right column on the 2 first page, there is a title of the article that 3 says "Edgewood launches new \$1.5 million upgrade." 4 Do you see that? 5 A Yes. 6 Q Then underneath that as a heading it says, 7 "Officials say facility will be used for practices 8 and will benefit community." Did I read that 9 correctly? 10 A Yes. 11 Q Okay. And this is an article for which you were 12 interviewed about this topic; correct? 13 A Correct. 14 Q Okay. And I want to ask you about a number of the 15 quotes that appear in the article to ask whether 16 or not those were statements made by you. Okay? 17 First of all, the third paragraph of this 18 article refers to a new facility that was made 19 possible by a \$1.025 million grant from the 20 Goodman Foundation; correct? 21 A Correct. 22 Q Okay. And that \$1.025 million gift from the 23 Goodman Foundation was for purposes of updating 24 the outdoor track and field area of Edgewood; 25 correct?</p>	<p style="text-align: right;">Page 119</p> <p>1 from the Goodmans? 2 A I had the meetings and the conversations with the 3 Goodman Foundation. 4 Q Okay. Do you know how they came about? 5 MR. INGRISANO: Objection. Form. 6 Vague. 7 A Yeah, I'm not sure what your question is. 8 Q Well, did you reach out to the Goodmans and 9 approach them about potentially donating in this 10 way? Did the Goodmans reach out to you? How did 11 the initial contact occur, if you recall? 12 A I don't recall. 13 Q Okay. Do you know roughly when the first contact 14 you had with the Goodmans regarding the potential 15 upgrade to the athletic field? Or, I'm sorry, to 16 the track and field? 17 A Not exactly. I mean, it was around the time of 18 this article probably, obviously a little before 19 that. 20 Q All right. And that's what I was asking. In 21 terms of how much more before that, this article, 22 was your initial contact with the Goodmans. Can 23 you give me a rough estimate? 24 A I don't recall. 25 Q Okay. Do you believe it was in 2015 versus 2014?</p>
<p style="text-align: right;">Page 118</p> <p>1 A It was a gift from the Goodman Foundation for the 2 City of Madison, to be used by not only the 3 Edgewood students but any neighbors that wanted to 4 use the facility, any other schools. And so it 5 was really something that was a gift both for 6 Edgewood but also the community. 7 Q But with respect to the money from the foundation, 8 it went to Edgewood; correct? 9 A It went to Edgewood with stipulations that the 10 field could be used by not just Edgewood. 11 Q Correct. But the money was given to Edgewood for 12 the purpose of updating the track and field area 13 of Edgewood's campus; correct? 14 A Edgewood and the City of Madison and the 15 neighborhood. 16 Q Well, the land where these upgrades occurred was 17 owned by Edgewood; correct? 18 A The land was owned by Edgewood. 19 Q Right. So even though the Goodmans had, as part 20 of the stipulation, that you had to let other 21 people use it, the actual track and field facility 22 is owned by Edgewood? 23 A Correct. 24 Q Okay. What was your involvement in procuring or 25 attempting to procure the \$1.025 million donation</p>	<p style="text-align: right;">Page 120</p> <p>1 A I don't know. I mean, it most likely took awhile 2 to develop the gift, so I would say 2014. 3 Q Okay. And can you put any other estimate on it, 4 whether it was the beginning of '14 versus the end 5 of 2014? 6 A No. 7 Q Okay. If you turn to page 2, there is a heading 8 that says "Many sports can play." Do you see 9 that? 10 A Page 2 -- 11 Q Page 2 of the document. And is it easier for you, 12 sir, to use the internet version? 13 A It's just bigger and I can read it easier. 14 Q That's okay. Okay. That would be on page 3 of 6 15 of the internet version where it says heading 16 "Many sports can play." Do you see that? 17 A Where? In the middle of the page or -- 18 Q I just want to direct you to the heading first, 19 "Many sports can play." Do you see that? It's on 20 page, the number on the bottom is page 3 of 6. 21 A Okay. Sorry. Now I do. I was one page off. 22 Q Okay. And the third paragraph down says, "Elliott 23 noted that one of the main benefits will be 24 improvements in the practice facilities for the 25 school's baseball and softball programs in the</p>

<p style="text-align: right;">Page 121</p> <p>1 spring, when teams are forced to practice indoors. 2 He added that the renovation will be a boom to all 3 the students." 4 Do you recall expressing that sentiment to 5 the reporter at the time that you were interviewed 6 for this article? 7 A My recollection of this conversation was it was 8 kind of a casual conversation and the reporter 9 took out of it what he wanted. He used -- it was 10 his choice on materials that he selected to use. 11 Q Understood. But with regard to that paragraph, 12 do you recall expressing that sentiment to the 13 reporter? 14 A It was part of the conversation, yes. 15 Q Okay. And the next is a quote. The next 16 paragraph is a quote by you. "We do require four 17 years of physical education for both semesters 18 which is higher than the national average and 19 higher than the national requirement." There is a 20 much needed product for our -- excuse me. "This 21 is a much needed product for our students to aid 22 our physical education department and the athletic 23 programs." Did I read that correctly? 24 A You did. 25 Q Is that quote an accurate quote of you to the</p>	<p style="text-align: right;">Page 123</p> <p>1 used. 2 A I would say I said what -- whether this was the 3 exact words, it was my sentiment. 4 Q Okay. In the next paragraph, it refers to -- it's 5 got a sentence there, "In the past Edgewood has 6 provided its track and field facility to area 7 parochial schools for practices and an annual 8 meet, the only early track and field development 9 experience for many grade school students." And 10 then continuing on the next page, "However, due to 11 the deterioration of the track, the event has been 12 held off campus in recent years." Did I read that 13 correctly? 14 A You did. 15 Q Is that a sentiment that you expressed to the 16 reporter? 17 A Yeah. As part of our partnership, we would always 18 hold the track meet for the youth parochial 19 schools at Edgewood, and we did have to stop for 20 a period of time because the track was dangerous 21 and it was held off campus one or two seasons. 22 I'm not sure exactly how many. 23 Q Okay. And then going down to the heading that 24 says "Neighborhood support," do you see that? 25 A Yes.</p>
<p style="text-align: right;">Page 122</p> <p>1 reporter? 2 A I don't know if that's word for word what I said 3 in the conversation. 4 Q Is it a sentiment that you would have expressed to 5 the reporter even if it's not a word-for-word 6 quote? 7 A I believe I would have talked about the value of 8 our physical education getting this gift because 9 the field could be used for increased numbers of 10 physical education classes and other classes 11 because it was a dry surface compared to something 12 that was natural grass and usually muddy. 13 Q Okay. And do you have any reason to believe this 14 is not an accurate quote by you? 15 A When you say quote, that's what concerns me. I'm 16 not sure if it's my exact words. But the 17 sentiment I think was there. As a casual 18 conversation, I mean, the reporters are usually 19 trying to make their own story, and it's not 20 always stated exactly as you say it. 21 Q Fair enough, sir. And I don't have any knowledge 22 of whether it is or it isn't, but the reporter is 23 putting it in quotes suggesting these are the 24 words you said. So I'm just wondering if you have 25 any reason to believe that's not the words you</p>	<p style="text-align: right;">Page 124</p> <p>1 Q It says, "According to Elliott, the project has 2 received the support of area neighborhood groups 3 that has balked in the past at the idea of turning 4 the facility into a competition site for 5 Edgewood's many athletic programs." Did I read 6 that correctly? 7 A Yes. 8 Q And then turning to the next page, "We're between 9 two neighborhood associations. They have been 10 vehemently opposed to us having lights or playing 11 games here. We're really building this to be able 12 to give our athletes the practice facilities that 13 provide the best surfaces possible and to expand 14 the amount of outdoor practices we can hold, 15 especially in the spring. That is our focal 16 point." Did I read that correctly? 17 A Yes. 18 Q And is that a quote that you provided to the 19 reporter in 2015 at the time of this article? 20 A I can't say that it's a quote that I provided. 21 Again, it was a conversation, that he captured 22 different parts of it. I think there was more to 23 it because we talked about -- we talked more about 24 the lights and that we were looking to build or to 25 add lights at some point because we had put the</p>

<p style="text-align: right;">Page 125</p> <p>1 conduit in the ground already and that the problem</p> <p>2 was that technology would not allow us to meet the</p> <p>3 city ordinance at the time we were doing this so</p> <p>4 it was going to be a practice facility and at some</p> <p>5 point we had hoped to turn it into more than a</p> <p>6 practice facility for games.</p> <p>7 Q Okay. At least the portion that I read was a</p> <p>8 sentiment you expressed to the reporter at the</p> <p>9 time of the article; correct?</p> <p>10 A It's part of what the sentiment was.</p> <p>11 Q Okay.</p> <p>12 A Again, I -- we talked a lot more about why the</p> <p>13 neighborhood associations were against us having</p> <p>14 the lights and that it was our intention -- we put</p> <p>15 the conduit and the wiring in from the start</p> <p>16 because we had hoped that at some point we could</p> <p>17 add lights if the technology let us -- allowed us</p> <p>18 to do that.</p> <p>19 Q Fair enough. So at least in 2015 you were</p> <p>20 planning for the future with prospective lights.</p> <p>21 But at the time you were not intending or planning</p> <p>22 to put in lights because the technology wasn't</p> <p>23 there; correct?</p> <p>24 A Correct.</p> <p>25 Q Okay. And with respect to putting the conduit in</p>	<p style="text-align: right;">Page 127</p> <p>1 Q Okay. And that was the current places where those</p> <p>2 teams would play?</p> <p>3 A Yes.</p> <p>4 Q Okay. Going down a couple paragraphs, there is a</p> <p>5 paragraph that starts, "Although Breitenbach</p> <p>6 Stadium gives the Crusaders football team a</p> <p>7 stellar site for home games, Coach Al Minnaert</p> <p>8 said a new practice field is long overdue." Do</p> <p>9 you see that?</p> <p>10 A I do.</p> <p>11 Q And do you agree that the Breitenbach Stadium in</p> <p>12 Middleton was a stellar site for the Crusaders</p> <p>13 football team?</p> <p>14 A It was for the actual field itself because it was</p> <p>15 new technology in turf in the area when we entered</p> <p>16 into the agreement. It was not a stellar site for</p> <p>17 our students and parents to have to drive off</p> <p>18 campus to go to home games.</p> <p>19 Q Well, with respect to the high school, parents who</p> <p>20 wanted to attend the high school games, and</p> <p>21 students, would have to drive from wherever they</p> <p>22 were to Edgewood; right?</p> <p>23 A Not if they were already there. If they had been</p> <p>24 their for their school day, they could just come</p> <p>25 to the sporting events rather than having to drive</p>
<p style="text-align: right;">Page 126</p> <p>1 the ground underneath the track, that wasn't for</p> <p>2 current use. That was for future use when the</p> <p>3 technology became available; correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. And at the time of this article in 2015,</p> <p>6 you didn't know when the technology would become</p> <p>7 available, whether it would be available a year</p> <p>8 from now, five years from now, ten years from now;</p> <p>9 correct?</p> <p>10 A Correct.</p> <p>11 Q Okay. I know this is not your quote, but I'm</p> <p>12 going to direct your attention to -- one moment,</p> <p>13 please. The paragraph just after the focal point</p> <p>14 paragraph I read, it's referring to a</p> <p>15 Mr. Zwettler. And who is he?</p> <p>16 A Athletic director.</p> <p>17 Q Okay. For Edgewood High School?</p> <p>18 A Correct.</p> <p>19 Q Okay. He said that, in the next paragraph, that</p> <p>20 the football team will continue to play home games</p> <p>21 at Breitenbach Stadium at Middleton High School</p> <p>22 and the Crusaders boys and girls soccer teams will</p> <p>23 play home games at the Reddan Soccer Complex in</p> <p>24 Verona; correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 128</p> <p>1 out to Middleton.</p> <p>2 Q Well, the parents would need to drive to Edgewood;</p> <p>3 correct?</p> <p>4 A Yes.</p> <p>5 Q And for any night games, both the parents and the</p> <p>6 students would need to drive whether a night game</p> <p>7 was held at Edgewood versus whether it was held at</p> <p>8 another location; right?</p> <p>9 A Those students that didn't choose to stay at</p> <p>10 school and, you know, study or whatever until the</p> <p>11 game, if they lived on the east side of town or</p> <p>12 maybe the parents couldn't pick them up.</p> <p>13 Q Then my statement is correct in that instance?</p> <p>14 A That -- repeat your statement.</p> <p>15 Q Sure. That the parents and the students who were</p> <p>16 attending any night games would need to drive from</p> <p>17 wherever they were to the location, whether that</p> <p>18 was Edgewood or whether it was another stadium;</p> <p>19 correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. Now, as I understood, after receiving the</p> <p>22 Goodman money, Edgewood replaced the existing</p> <p>23 track and field with a brand new track and field;</p> <p>24 correct?</p> <p>25 A Correct.</p>

<p style="text-align: right;">Page 129</p> <p>1 Q Did you have any communications with the city 2 regarding that change, from the old surfaces and 3 field to the new? 4 A I believe I did. 5 Q Okay. Did you have discussions on whether such a 6 change would require an amendment to your master 7 plan? 8 A I believe I did. 9 Q And what did you understand the city's position to 10 be, if you recall? 11 A My recollection was that we didn't need that 12 because it was considered a resurfacing. 13 Q Okay. And did the city express to you that 14 because you were simply exchanging the current 15 track with a new track that the city would 16 classify that as a replacement or a maintenance 17 which would allow Edgewood to complete the project 18 without amending its master plan? 19 A Something -- yes. 20 Q Okay. And that was a benefit -- that was a 21 benefit for Edgewood, that it could proceed 22 without amending its master plan; correct? 23 MR. INGRISANO: Objection. Form. 24 Foundation. 25 A I don't know if --</p>	<p style="text-align: right;">Page 131</p> <p>1 do that, what do I have to do to do that, and 2 basically it was nothing because it's a 3 resurfacing. 4 Q Okay. Do you know whether any of the neighbors 5 complained at all at the time about your 6 resurfacing and -- you know, of your redoing the 7 track and field? 8 A There isn't anything we do that doesn't get some 9 complaint from the neighbors. So I would say yes, 10 we got some complaints. 11 Q And despite their complaints, though, the city 12 allowed the resurfacing to occur without incident; 13 correct? 14 MR. INGRISANO: Objection. Form. 15 Foundation. 16 A We went ahead as planned. 17 Q Okay. 18 A It was done by Rettler, and they executed the 19 contract. 20 Q You agree that to the extent that the city has 21 allowed other institutions in the Campus- 22 Institutional District to replace an existing 23 improvement that Edgewood was treated the same 24 with respect to replacing its existing track and 25 field?</p>
<p style="text-align: right;">Page 130</p> <p>1 Q Okay. 2 A I don't know what the process would have been for 3 the field. 4 Q Okay. From your understanding, did you believe 5 the city's interpretation of allowing you to 6 replace the existing track with a new track 7 without requiring an amendment to your master plan 8 was reasonable? 9 A I didn't -- I didn't believe we had to do anything 10 with the master plan for that at that time. 11 Q Okay. 12 A So it was just a resurfacing, that we didn't have 13 to get approval because it was already there and 14 it was just being resurfaced. So I didn't know it 15 had anything to do with the master plan. I 16 thought it was just because it was a surface and 17 we could do it. 18 Q But you did have discussions with the city to make 19 sure that it was something that you could do 20 without having to amend your master plan; correct? 21 MR. INGRISANO: Objection. Form. 22 A I had a discussion with the city, but I don't know 23 that we talked about anything to have to do with 24 the master plan. I think it was just that I 25 wanted to resurface a field and a track and can I</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. INGRISANO: Objection. Form. 2 Foundation. 3 A I have no idea what the other schools went through 4 or would have gone through. 5 Q You mentioned that -- I believe you mentioned, so 6 correct me if I'm wrong, that at the time of 7 putting in the new track and field that Edgewood 8 got permits to install the PVC conduit for future 9 use for lighting and communications; correct? 10 A Correct. 11 Q And you might have said this, sir, so forgive me 12 if I'm asking a question again. There were no 13 discussions at the time with the city as to when 14 in the future Edgewood intended to put in any 15 field lights or communications; is that right? 16 MR. INGRISANO: Objection. Form. 17 Asked and answered. Go ahead. 18 MS. ZYLSTRA: Fair enough. 19 A Those conversations weren't with me. They were 20 with Rettler. 21 Q Okay. You're not aware of any such communications 22 at the time? 23 A No, I'm not. 24 Q Okay. Do you agree that it made financial sense 25 for Edgewood to lay the PVC for future use while</p>

Page 133

1 the track was being ripped up and put in place as
 2 opposed to doing that later in the future?
 3 A Yes. We would have had to dig the field up to
 4 make the connections at a later date.
 5 Q Okay.
 6 (Exhibit No. 58 marked for
 7 identification)
 8 Q Mr. Elliott, I'm showing you what's been marked as
 9 Exhibit 58. Edgewood sought to amend its master
 10 plan in March of 2016 to add some parking;
 11 correct?
 12 A I'm not sure. If the college did that, then I
 13 wouldn't be aware of it.
 14 Q Sir, at the bottom there are some numbers. If you
 15 could turn to page 1583.
 16 A Okay.
 17 Q This is a letter dated December 5, 2014; correct?
 18 A Correct.
 19 Q And this letter is signed by you, as well as other
 20 individuals; correct?
 21 A Correct.
 22 Q And the first paragraph of the letter says,
 23 "In an effort to alleviate the problem of on-
 24 street parking in the surrounding neighborhoods,
 25 Edgewood High School is proposing an amendment to

Page 134

1 the Edgewood Campus Master Plan to allow for
 2 additional on-campus parking." Did I read that
 3 correctly?
 4 A Yes.
 5 Q Okay. So this amendment to add additional on-
 6 campus parking was for the high school; correct?
 7 A Correct.
 8 Q Okay. And the next sentence on that letter
 9 says that the submitted plan was endorsed by the
 10 Vilas and the Dungeon-Monroe Liaison Committee's
 11 meeting minutes you attached and supported by our
 12 District 13 Alder Sara Eskrich; correct?
 13 A Correct.
 14 Q Okay. And if you'd turn the page, there are
 15 minutes for the Edgewood Neighborhood Liaison
 16 Committee; correct?
 17 A Correct.
 18 Q Okay. And turning to the bottom page is 1586,
 19 there is a letter from Alder Sara Eskrich;
 20 correct?
 21 A Correct.
 22 Q And at least she indicates in her letter that this
 23 is something -- she says, "This is something that
 24 I've been working with the school and neighbors on
 25 since spring 2015. The Edgewood Neighborhood

Page 135

1 Liaison Committee, Vilas Neighborhood Association,
 2 and Dudgeon-Monroe Neighborhood Association have
 3 also been discussing this issue and all shared
 4 their support for this project." How is -- sorry.
 5 Is that correct?
 6 A Correct.
 7 Q Okay. And did the city ultimately approve your
 8 amendment to the master plan as it relates to
 9 parking?
 10 A Yes.
 11 Q And you don't believe that the city discriminated
 12 against Edgewood in any way in approving the
 13 master plan amendment for parking; correct?
 14 A This project was driven completely by the
 15 neighbors. They requested it, and so I don't
 16 think there was going to be any disagreement with
 17 us doing this. We were doing it as a favor to the
 18 neighbors because they were blaming all the
 19 parking in the neighborhoods with -- even though
 20 there is UW students and college students, they
 21 were blaming it all on the high school students,
 22 so we had to spend the money to add the parking on
 23 our property, and so I think there was -- it was
 24 approved mainly because this is what the neighbors
 25 wanted, not what Edgewood wanted to do.

Page 136

1 Q Okay. My question is do you believe the city
 2 discriminated against Edgewood in any way in
 3 approving the master plan amendment for parking?
 4 MR. INGRISANO: Objection. Form.
 5 A I would say that it wasn't viewed as Edgewood's --
 6 it was on Edgewood's property, but it was
 7 demand -- it was requested strongly by the
 8 neighbors.
 9 Q Fair enough, sir, and I understand your position.
 10 But I'd like an answer to my question.
 11 Do you believe that the city discriminated
 12 against Edgewood in any way in approving the
 13 amendment of your master plan as it relates to
 14 parking?
 15 MR. INGRISANO: Objection. Form.
 16 Argumentative.
 17 A No.
 18 Q Okay. Thank you.
 19 A Can I change my testimony on something before?
 20 Q Is there something that you testified to
 21 incorrectly before?
 22 A Well, when I was trying to go through the number
 23 of projects that Edgewood --
 24 Q Yes.
 25 A -- had and I was struggling with whether or not

Page 137

1 the parking one was ours, there was -- this would
 2 be an additional project that I didn't identify
 3 before when I was asked. Now that I see this,
 4 it's clear which project that was.
 5 Q Okay. And I appreciate that, sir, although I
 6 actually think your testimony might be correct.
 7 So let me see if I can plow that ground.
 8 A Okay.
 9 Q This was an amendment to your master plan because
 10 this particular parking project was not identified
 11 originally in your master plan; is that right?
 12 A That's right.
 13 Q Okay. So I think --
 14 A Sorry.
 15 Q -- you were correct initially that the other
 16 parking related to other matters, not the
 17 high school.
 18 A Right.
 19 Q Okay. But I appreciate the clarification, sir,
 20 and if there is anything else, you feel free to
 21 mention it.
 22 A Thanks.
 23 Q Okay. Now, in May of 2006 (sic) did Edgewood
 24 unveil to the Neighborhood Liaison Committee a
 25 presentation to build a new stadium?

Page 138

1 A I don't know the date.
 2 Q That's okay. Let me help you out, sir.
 3 (Exhibit No. 59 marked for
 4 identification)
 5 MS. ZYLSTRA: I think it's 59.
 6 COURT REPORTER: Yes.
 7 Q Sir, I'm showing you what's been marked as
 8 Exhibit 59. This is an email with the subject
 9 line Agenda for Edgewood Neighborhood Liaison
 10 Committee Meeting May 10, 2016. Is that correct?
 11 A Correct.
 12 Q And there is a bunch of people in the "to" line,
 13 but one of them is you; correct?
 14 A Yes.
 15 Q Okay. And if you look below, you see an agenda
 16 for the meeting; correct?
 17 A Correct.
 18 Q Okay. And if you'd turn the page, at the top
 19 there is a bullet that says "Seating and lighting
 20 for the athletic field." Do you see that?
 21 A Yes.
 22 Q Okay. So in May of 2016 did Edgewood unveil to
 23 the Neighborhood Liaison Committee a presentation
 24 to build a new stadium?
 25 MR. INGRISANO: Objection.

Page 139

1 Foundation. Form.
 2 A I'm not sure if this was the first time we
 3 unveiled it.
 4 Q Okay.
 5 A But we did at that meeting have -- it was part of
 6 the agenda for that meeting.
 7 Q Fair enough. It might have been sooner than May
 8 of 2016, but at least as of May of 2016 that idea
 9 had been brought to the Neighborhood Liaison
 10 Committee?
 11 A Correct.
 12 Q Fair? Okay.
 13 (Exhibit No. 60 marked for
 14 identification)
 15 MS. ZYLSTRA: Exhibit 60?
 16 COURT REPORTER: Yes.
 17 Q Sir, I'm showing you what's been marked as
 18 Exhibit 60. Do you recognize this as a flyer that
 19 Edgewood High School put together with regard to
 20 adding a stadium to its facility?
 21 A The question is is this the flyer?
 22 Q Yes.
 23 A Yes.
 24 Q Does this describe what it is that you raised in
 25 terms of in May of 2016 to the Neighborhood

Page 140

1 Liaison Committee as to what Edgewood was looking
 2 to do?
 3 A Yes.
 4 Q Okay. The second page of the document identifies
 5 Rettler, R-e-t-t-l-e-r, Corporation. And I think
 6 you've mentioned them before. Were they the ones
 7 who were going to actually perform the construction?
 8 A Yes.
 9 Q Do you know when you first contacted Rettler about
 10 the construction for the new stadium?
 11 A I do not.
 12 Q Do you know whether you did that prior to meeting
 13 with the Neighborhood Liaison Committee in May of
 14 2016?
 15 A Yes. I did.
 16 Q Prior?
 17 A Talk to them prior to that.
 18 Q Do you know how soon prior or how -- that's a poor
 19 question. But do you know -- can you give me a
 20 rough estimate how much prior to May of 2016 you
 21 contacted Rettler?
 22 A I would say in the range of three to four months.
 23 Q Okay. Then on the first page of this flyer, it's
 24 got a heading "Neighborhood Concerns." Do you see
 25 that?

Page 141

1 A Yes.
 2 Q It says, "The concerns neighbors expressed were
 3 usage, traffic, parking, lights, and sound." Is
 4 that correct?
 5 A Correct.
 6 Q And those were generally concerns that the
 7 Neighborhood Liaison Committee had expressed to
 8 Edgewood repeatedly in the past when it wanted to
 9 expand its use of its athletic field; true?
 10 MR. INGRISANO: Objection. Form.
 11 A Those were concerns that they've brought up in
 12 some listening meetings that we held, and so it
 13 was the neighbors and the liaison committee.
 14 Q And they had expressed those concerns for many
 15 years, is that right, prior to the May 2016
 16 meeting?
 17 A I had heard complaints when I was -- after I
 18 became president when I brought this idea up.
 19 Q Okay. Did you ever obtain any kind of cost
 20 estimate for the project that's identified in
 21 Exhibit 60 from Rettler?
 22 A Yes.
 23 Q Can you give me a rough estimate of what the cost
 24 is?
 25 A Boy, that was awhile ago. I don't know the number

Page 142

1 that it was.
 2 Q Okay.
 3 A Estimate --
 4 MR. INGRISANO: Objection. Form.
 5 Vague as to time. Go ahead.
 6 A The plan that was described here was probably
 7 around 2 million.
 8 Q Okay.
 9 (Exhibit No. 61 marked for
 10 identification)
 11 Q Mr. Elliott, I'm showing you what's been marked as
 12 Exhibit 61. I'll give you a second to review that
 13 document.
 14 A Are you talking about both or the first one?
 15 Q Read both, if you won't mind, sir.
 16 A Okay. Okay.
 17 Q Okay. The middle email is an email from you to
 18 Alder Sara Eskrich; correct?
 19 A Correct.
 20 Q And in that email you're asking Alder Sara Eskrich
 21 to sign off on a minor amendment to the master
 22 plan so that you could hold an October 5 senior
 23 night football game with temporary lights and
 24 seating; correct?
 25 MR. INGRISANO: Objection. Form.

Page 143

1 Mischaracterizes. Go ahead.
 2 Q Well, given the objection, why don't we just read
 3 it in.
 4 You indicate that -- you said, "Sarah, can we
 5 talk transition? I am in a heap of trouble with
 6 no place to play an October 5 game that is senior
 7 night. Parents want to hold game here with
 8 temporary lights and seats. Cost to do that is
 9 \$27,000. Can you help me understand time involved
 10 for us to get seats and lights? Now that you're
 11 leaving, how about a signoff for a minor
 12 amendment," and you've got four question marks.
 13 "If not time and process for major amendment."
 14 Did I read that correctly?
 15 A Correct.
 16 Q Okay. So you're asking Alder Eskrich to sign off
 17 on doing a minor amendment to the master plan for
 18 you to hold an October 5 senior night football
 19 game with temporary lights and seating; correct?
 20 A We had a good relationship with Sara, and she --
 21 this was kind of tongue in cheek because she was
 22 leaving and she had worked closer -- usually when
 23 you have an alder in a neighborhood, the alder
 24 works for both sides and tries to come up with
 25 common ground and see how they can work, and she

Page 144

1 was fantastic that way.
 2 And so this was my humor to her saying, how
 3 about a minor amendment, knowing that she could
 4 sign off on minor amendments, but this certainly
 5 wasn't a minor amendment on the stadium. I didn't
 6 view the -- if we got temporary bleachers in and
 7 if we did the temporary lighting that that would
 8 be anything she had to sign off on because I
 9 thought that temporary things were just -- didn't
 10 have anything to do with the master plan. If we
 11 wanted to build a stadium, she would have to --
 12 obviously it would be a major or a minor signoff,
 13 but I didn't view this game.
 14 It just shows what we would go through. Here
 15 we are senior night, we have no place to go play a
 16 game because we don't have access unless all the
 17 other city teams have been looked at and granted
 18 their games, that we have a place to go to play.
 19 And so this was showing the jam we were in
 20 and my requesting of her for a minor amendment was
 21 more could you -- a joke to say can you get the
 22 minor amendment for the stadium, which I knew she
 23 couldn't.
 24 MS. ZYLSTRA: Okay. I'll move to
 25 strike as nonresponsive.

Page 145

1 MR. INGRISANO: He explained to
 2 you -- he explained that perfectly clearly.
 3 MS. ZYLSTRA: You have your
 4 objection.
 5 Q Mr. Elliott, with respect to Alder Eskrich's
 6 response, she indicates to you that for a
 7 temporary permit for games you needed to work with
 8 the city staff; correct?
 9 A Correct.
 10 Q Okay. She also indicates to you that she can't
 11 sign off on the stadium lights as a minor
 12 alteration because we've discussed very publicly
 13 that this requires a master plan amendment.
 14 Correct?
 15 A Correct.
 16 Q Okay. So at least you understood as of July of
 17 2018 that for a temporary permit for games that
 18 you should talk with city staff and as to stadium
 19 lights, that that required a master plan
 20 amendment?
 21 MR. INGRISANO: Objection. Form.
 22 Mischaracterizes.
 23 A I did not feel that there had to be a signoff to
 24 play the game there. I was asking her if she
 25 could get us a signoff as a joke for the -- to get

Page 146

1 the stadium to move ahead.
 2 Q Did you reach out to -- well, first of all, she
 3 refers to Tim and Matt. You understood that to be
 4 Tim Parks and Matthew Tucker; correct?
 5 A Correct.
 6 Q Did you reach out to Mr. Parks and/or Mr. Tucker
 7 with regard to a temporary permit for your game?
 8 A I don't -- I don't think I did. I don't know. I
 9 can't remember if I did or not.
 10 Q Okay. Where was Edgewood scheduled to play its
 11 senior night on October 5 prior to this email?
 12 A It was a home game, and we didn't have a field and
 13 sometimes when we didn't have a field to play on
 14 for a home game we had to give up the home game.
 15 The parents obviously were going wild
 16 thinking that we wouldn't have a stadium to play
 17 a home game on senior night at the end of the
 18 season. So at this point I didn't have a place
 19 to play the game.
 20 Q My question is do you know where you were
 21 scheduled to play it prior to this email?
 22 MR. INGRISANO: Objection.
 23 Foundation. Form.
 24 A No. It was a home game. We didn't know from week
 25 to week where we were going to have an open field

Page 147

1 to play.
 2 Q Okay. Do you know where you ultimately held the
 3 October 5 game?
 4 A I don't.
 5 Q Do you recall whether or not you had senior night
 6 in 2018?
 7 A Well, I'm pretty sure that we had senior night or
 8 I would have heard a lot more about it, and I can
 9 tell you that it wasn't played at Edgewood.
 10 Q Okay. Do you remember anything else regarding any
 11 follow-up to this issue, that is senior night, the
 12 October 5 senior night and any request for a
 13 temporary permit or lights?
 14 A Well, I did have a conversation with I believe
 15 both Tim and Matt to try to define what temporary
 16 meant as far as seating. We had dramatically
 17 scaled back the plans that we had originally
 18 presented to the neighbors, and we have aluminum
 19 bleachers and we were trying to see if we could
 20 put two more sets of aluminum bleachers next to
 21 the ones that we have because they only seat 450
 22 people and then if we could either ideally put
 23 bathrooms in, but otherwise use porta pots for our
 24 guests, and then if that would give us the ability
 25 to expand our seating for the crowds that we got.

Page 148

1 You know, that was out there until the --
 2 it's something, the ordinance changed or there was
 3 a change with how -- what was approved or what
 4 could or couldn't be approved, so we've not done
 5 anything as far as replace anything in that
 6 facility.
 7 Q When were these discussions with Mr. Parks and/or
 8 Mr. Tucker regarding temporary?
 9 A I would have to look back in my files or my notes.
 10 Q Do you know whether it's 2018, 2019, 2020, or some
 11 other year?
 12 A I believe it would have been around 2018, 2019.
 13 Q Can you give me any other estimate other than the
 14 two-year span?
 15 A I'm just guessing at a date right now.
 16 Q Okay.
 17 A I don't recall what the date of that meeting was.
 18 Q Okay.
 19 MR. INGRISANO: Mike, don't guess.
 20 Don't guess at things. Okay?
 21 THE WITNESS: Okay.
 22 Q Did you understand, at least from Alder Eskrich's
 23 July 27, 2018, email that she believed that
 24 stadium lights would require a master plan
 25 amendment?

<p style="text-align: right;">Page 149</p> <p>1 A I'm sorry. Say that again. 2 Q Did you understand from the email from 3 Alder Eskrich that's in Exhibit 61 that she 4 believed stadium lights would require a master 5 plan amendment? 6 A Yes. 7 Q Okay. 8 (Exhibit No. 62 marked for 9 identification) 10 Q Mr. Elliott, I'm showing you what's been marked as 11 Exhibit 62. The first page of this exhibit is a 12 letter signed by you to Heather Stouder at the 13 city's planning department; correct? 14 A Correct. 15 Q Okay. And with respect to this letter in the 16 second paragraph, you write, "Now we believe the 17 time is right to upgrade the Goodman Athletic 18 Complex to incorporate new technology that would 19 allow our students to host a limited number of 20 night home games at Edgewood like other teams in 21 our conference host night games on their campuses. 22 We are diligently working through the city's 23 adopted process to amend our campus master plan to 24 allow for better and more strategic usage of this 25 important community resource." Did I read that</p>	<p style="text-align: right;">Page 151</p> <p>1 up signs all over about no stadium, and I just -- 2 I think this was when we decided that we weren't 3 going to build a stadium but we were going to add 4 seats. 5 Q Okay. If you look at the page, the third page 6 that has your signature on it. 7 A Uh-huh. 8 Q Under the project -- I take your point, sir. 9 But under the project description, it's amend 10 the adopted master plan to incorporate lighting, 11 expand seating, add restrooms, team rooms, and 12 storage and defines field use; correct? 13 A Correct. 14 Q All of those things were being incorporated into 15 this amendment to the master plan; correct? 16 A And I stand corrected. This is -- this was when 17 the neighbors were still calling it a stadium. 18 So -- 19 Q Okay. 20 A Yes, I -- 21 Q Okay. Now, with respect to your letter where 22 you're talking about the time is right to upgrade 23 the Goodman Athletic Complex -- well, let me back 24 up. 25 Let's go to the first paragraph of your</p>
<p style="text-align: right;">Page 150</p> <p>1 correctly? 2 A Yes. 3 Q Okay. And turning the page, there is a land use 4 application. Do you see that? 5 A Yes. 6 Q And in the middle of the page under project 7 information, this is the Goodman Athletic Complex 8 master plan amendment; correct? 9 A Correct. 10 Q And turning the page one more time, this is signed 11 by you; correct? 12 A Yes. 13 Q And it's dated November 14, 2018; correct? 14 A Yes. 15 Q Okay. And so do you recognize Exhibit 62 as 16 Edgewood's amendment to its master plan to add 17 lights and a sound system and a stadium at the 18 Goodman Athletic Complex? 19 A I -- just your terminology, a stadium, we were 20 not -- that's kind of what everybody was trying to 21 call it to make it seem bigger than it was. At 22 this point I think we were just asking for the 23 expanded seating and the lights and the... As I 24 mentioned, we had gone through conversations with 25 the neighbors about size and they were -- had put</p>	<p style="text-align: right;">Page 152</p> <p>1 letter. It indicates that you had been working 2 closely with the city, the liaison committee, and 3 local neighbors for the past year and a half about 4 opportunities we are seeking to enrich the 5 offerings of the Goodman Athletic Complex; 6 correct? 7 A Correct. 8 Q And with respect to the Goodman Athletic Complex, 9 after the upgrades that were done in 2015, 10 Edgewood started holding a lot more games and 11 practices on that track and field; correct? 12 MR. INGRISANO: Objection. Form. 13 Vague as to "a lot." Go ahead. 14 A There is -- I don't agree with that statement. 15 There was not a dramatic increase of games. It's 16 just that I think the neighbors were paying 17 attention to them more. 18 Q Do you agree there is an increase? 19 A I don't have those records. 20 Q Okay. 21 (Exhibit No. 63 marked for 22 identification) 23 Q Sir, I'm showing you what's been marked as 24 Exhibit 63. Do you recognize this document? 25 A This isn't a document of mine that I recall.</p>

<p style="text-align: right;">Page 153</p> <p>1 Q You don't recall this document?</p> <p>2 A Okay. I recall this from after the meeting.</p> <p>3 Q Okay. And you recall this is a document that</p> <p>4 Edgewood submitted to the Plan Commission?</p> <p>5 A Yes.</p> <p>6 Q Okay. And if you turn to -- well, I'll start on,</p> <p>7 if you look at claim number 5 which is on the</p> <p>8 second page, there is a claim, "Edgewood has</p> <p>9 dramatically increased the frequency and intensity</p> <p>10 of use of its athletic field in 2019 but only</p> <p>11 hosted four to five games a year before adopting</p> <p>12 the 2014 master plan." Do you see that, sir?</p> <p>13 A Yes.</p> <p>14 Q And then following that claim are facts that are</p> <p>15 being presented by Edgewood as it relates to that</p> <p>16 claim; correct?</p> <p>17 A Yes.</p> <p>18 Q Okay. It says as the first sentence of the</p> <p>19 response, "As an initial matter, the number of</p> <p>20 games Edgewood plays on its athletic field is not</p> <p>21 relevant." Do you see that, sir?</p> <p>22 A Where?</p> <p>23 Q The first sentence under facts.</p> <p>24 A Okay.</p> <p>25 Q Do you see that written there, sir?</p>	<p style="text-align: right;">Page 155</p> <p>1 storage, did you understand that to add those</p> <p>2 things required an amendment to your master plan</p> <p>3 at the time that you submitted this in 2018?</p> <p>4 A Yes.</p> <p>5 Q Okay. Can you turn to, on Exhibit 62, I'm going</p> <p>6 to use the internal -- well, I'll use the bottom</p> <p>7 numbers. It's the City 1308.</p> <p>8 A Yes.</p> <p>9 Q Are you there?</p> <p>10 A Yes.</p> <p>11 Q Okay. And at least in the pictures that Rettler</p> <p>12 have done, it refers to athletic stadium seating</p> <p>13 redevelopment from list and -- it refers to</p> <p>14 athletic stadium a couple times in those drawings;</p> <p>15 correct?</p> <p>16 A Correct.</p> <p>17 Q So at least you can understand why the neighbors</p> <p>18 might have been calling it a stadium; is that</p> <p>19 fair?</p> <p>20 MR. INGRISANO: Objection.</p> <p>21 Objection. Form, argumentative. It says</p> <p>22 athletic stadium seating.</p> <p>23 A There was a period of time where I thought --</p> <p>24 where we had reduced the scope of the project.</p> <p>25 I don't know the date of that.</p>
<p style="text-align: right;">Page 154</p> <p>1 A Yes.</p> <p>2 Q Okay. Now if you'd turn the page, and the first</p> <p>3 sentence of the first full paragraph says, "The</p> <p>4 recent increase in games on the athletic field</p> <p>5 coincided with needed improvements completed in</p> <p>6 2015, including synthetic turf and updated track</p> <p>7 and a modern score board." Do you see that, sir?</p> <p>8 A Yes.</p> <p>9 Q So do you agree that there was an increase in</p> <p>10 games on the athletic field following the</p> <p>11 improvements completed in 2015?</p> <p>12 MR. INGRISANO: Objection. Form</p> <p>13 and foundation as to this document.</p> <p>14 A Our belief was that the games that were being</p> <p>15 counted in the previous years were just football</p> <p>16 and now we were also playing soccer games on the</p> <p>17 field and lacrosse games.</p> <p>18 Q So you agree there was an increase in games on</p> <p>19 the athletic field that coincided with the</p> <p>20 improvements that occurred in 2015?</p> <p>21 A Yes.</p> <p>22 Q Thank you. And going back, I'm sorry, for a</p> <p>23 moment to Exhibit 62, and in terms of the</p> <p>24 description of the project, that is adding</p> <p>25 lighting, seating, restrooms, team rooms, and</p>	<p style="text-align: right;">Page 156</p> <p>1 Q Okay. All right.</p> <p>2 (Exhibit No. 64 marked for</p> <p>3 identification)</p> <p>4 MR. INGRISANO: We've been going</p> <p>5 about an hour and 15, so whenever you're</p> <p>6 ready for a break.</p> <p>7 MS. ZYLSTRA: Do you want to do it</p> <p>8 before this, or this exhibit will be quick.</p> <p>9 Up to you.</p> <p>10 MR. INGRISANO: Yeah. Why don't we</p> <p>11 just do this exhibit. That's fine. Thanks.</p> <p>12 MS. ZYLSTRA: Okay.</p> <p>13 Q Mr. Elliott, I'm showing you what's been marked as</p> <p>14 Exhibit 64. Do you recognize this as an email</p> <p>15 that was sent from Matthew Tucker to you dated</p> <p>16 October 26, 2018?</p> <p>17 A Yes.</p> <p>18 Q Okay. And the email begins by Mr. Tucker that the</p> <p>19 purpose of this message is to follow up on our</p> <p>20 conversation earlier this week about the current</p> <p>21 usage of the athletic field as that use relates to</p> <p>22 the adopted master plan for the Edgewood campus.</p> <p>23 Did I read that correctly?</p> <p>24 A Yes.</p> <p>25 Q Okay. Do you recall having a conversation with</p>

<p style="text-align: right;">Page 157</p> <p>1 Mr. Tucker earlier in the week regarding the usage 2 of the athletic field as it relates to the master 3 plan? 4 A I remember a conversation. 5 Q What do you -- or, I'm sorry. 6 A I'm just not sure if it was in person or on the 7 phone. 8 Q What do you recall the conversation to be? 9 A I believe he was concerned about his definition of 10 the master plan, defining what it said we could 11 and couldn't do. 12 Q Okay. And specifically in paragraph 2 of this 13 email, Mr. Tucker indicates it's his belief that 14 the "Open Space Plan" section of the master plan 15 (3.8) limits Edgewood's use of the athletic field 16 to team practices and physical education 17 practices; correct? 18 A That's what he had stated. 19 Q Okay. Was that the substance of your conversation 20 with him earlier in the week? 21 A Again, I'm not sure of the timing. I'm not 22 recalling exactly what we talked about and when. 23 Q Okay. Well, regardless if you're remembering -- 24 I guess, Mr. Elliott, I want to know what you do 25 recall as to any of your conversation with</p>	<p style="text-align: right;">Page 159</p> <p>1 conversation with Mr. Tucker around this time in 2 October of 2018? 3 A I don't. 4 Q I don't -- I want to make sure you finished your 5 answer. Is that -- 6 A I don't recall any -- I don't recall the 7 conversation. 8 Q Okay. At least in this email Mr. Tucker indicates 9 to you that if you want to continue to play games 10 that you would need to pursue an amendment to the 11 master plan; correct? 12 A Correct. 13 Q Okay. Do you know if you ever responded to this 14 email? 15 A I don't. 16 Q Okay. With regard to this email from Mr. Tucker, 17 the second paragraph is referring to a 18 neighborhood meeting on Wednesday, October 7 19 (sic). Correct? 20 A Yes. 21 Q Okay. Do you recall that October 17 neighborhood 22 meeting? 23 A No. 24 Q Okay. With respect to Mr. Tucker indicating his 25 belief that a master plan amendment was needed, he</p>
<p style="text-align: right;">Page 158</p> <p>1 Mr. Tucker. 2 A I'm going to read through this. 3 Q Sure. I'm sorry, sir. 4 A No. I -- 5 Q Please take your time. 6 A So I believe our conversation was around this 7 topic. 8 Q Okay. And not a trick question if you don't 9 recall, but do you recall anything that Mr. Tucker 10 said to you or that you said to him other than 11 what's presented in this email? 12 A I believe we disagreed on the -- defining that 13 there was only -- that you couldn't play games 14 there because we had been playing games on the 15 field for 100 years. 16 Q Okay. 17 A And that I'd never heard anything that we couldn't 18 or shouldn't and that what else do you do on 19 athletic fields but play athletic events. 20 Q You believe that's what you indicated to 21 Mr. Tucker in the conversation prior to this 22 email? 23 A I believe I was frustrated with the 24 interpretation, yes. 25 Q Okay. Do you recall anything else about your</p>	<p style="text-align: right;">Page 160</p> <p>1 directed this email to you and Brian Munson. Who 2 is Brian Munson? 3 A He was a consultant that was working with us with 4 the city. 5 Q Mr. Munson was working with Edgewood on its 6 project; correct? 7 A Correct. 8 Q Okay. Mr. Tucker did not include on this email 9 any of the neighborhood association or any of the 10 neighbors; correct? 11 A Not that I can see. 12 Q Right. He directed this just to you and 13 Mr. Munson with some additional city personnel; 14 correct? 15 A It looks like that, yes. 16 Q Okay. And the city didn't issue any notices or 17 any citations with respect to Edgewood's use of 18 its field at this time in October of 2018; 19 correct? 20 A I don't -- I don't believe there was any 21 citations. 22 Q Okay. Did you understand this, at least from 23 Mr. Tucker, to be an informal request for Edgewood 24 to amend its master plan without raising issues in 25 terms of opposition from the neighbors?</p>

Page 161

1 MR. INGRISANO: Objection. Form.
 2 Q That's a bad question. Let me start it again.
 3 Mr. Tucker was trying to keep this
 4 essentially a relatively private matter between
 5 the city and Edgewood in terms of what needed to
 6 be done with respect to its master plan; correct?
 7 MR. INGRISANO: Objection. Form.
 8 Calls for speculation.
 9 A I don't know what his intention was.
 10 Q Fair enough.
 11 MS. ZYLSTRA: Okay. Let's take a
 12 break.
 13 MR. INGRISANO: Great. Thanks.
 14 MR. HANSEN: Going off the record
 15 at 2:21.
 16 (Recess)
 17 (Mr. Jean-Louis exited the
 18 proceedings)
 19 MR. HANSEN: We're back on the
 20 record at 2:32.
 21 (Exhibit No. 65 marked for
 22 identification)
 23 Q Mr. Elliott, I'm showing you what's been marked as
 24 Exhibit 65. Can you take a look at that for a
 25 moment?

Page 162

1 Do you recognize Exhibit 65 -- well, let me
 2 first start by this is a letter dated November 14,
 3 2018, from a Katherine Rist, R-i-s-t. Do you see
 4 that?
 5 A Yes.
 6 Q Was Attorney Rist an attorney for Edgewood?
 7 A Yes.
 8 Q And she is writing this letter on behalf of
 9 Edgewood with regard to the prior exhibit,
 10 Exhibit 64, that is the email from Matt Tucker
 11 to you and Mr. Munson; correct?
 12 MR. INGRISANO: Objection.
 13 Foundation. Go ahead.
 14 Q Well, let me stop you there. The first paragraph
 15 states, "I am writing to you on behalf of our
 16 client, Edgewood High School of The Sacred Heart,
 17 Inc. (Edgewood) in response to your email sent on
 18 Friday, October 6, 2018, to Mr. Michael Elliott
 19 and Mr. Brian Munson with respect to Edgewood's
 20 use of the athletic fields under the adopted
 21 master plan for Edgewood's campus." Did I read
 22 that correctly?
 23 A Yes.
 24 Q Okay. She writes, at least in the last sentence
 25 of the first paragraph, that, "To the extent the

Page 163

1 master plan may be interpreted in a way which does
 2 not expressly permit the current use, Edgewood's
 3 position is that such use is a legal nonconforming
 4 use and may continue." Did I read that correctly?
 5 A Yes.
 6 Q Okay.
 7 (Exhibit No. 66 marked for
 8 identification)
 9 Q Mr. Elliott, I'm showing you what's been marked as
 10 Exhibit 66. Do you see that, sir?
 11 A Yes.
 12 Q This is a letter a few days later on November 20,
 13 2018, from Matt Tucker from the city to Edgewood's
 14 attorney, Katherine Rist; correct?
 15 MR. INGRISANO: Objection.
 16 Foundation.
 17 A It looks like that's from the topic and from who.
 18 Q Did you receive a copy of this letter from
 19 Attorney Rist?
 20 A I don't recall at this time.
 21 Q Well, with respect to the bottom numbers, that
 22 EHS 3563, that's a Bates number on the bottom,
 23 I'll represent based on this Bates number this
 24 record came from Edgewood's files. Do you have
 25 any reason to believe that this -- that you did

Page 164

1 not receive a copy of this letter?
 2 MR. INGRISANO: Objection. Form.
 3 A I don't know if I received it or not.
 4 Q Okay. In this letter Mr. Tucker indicates that
 5 he, in the second sentence, he said he disagrees
 6 with Edgewood's position that it's established a
 7 legal nonconforming use. Do you see that?
 8 A I do.
 9 Q Okay. And with respect to the second paragraph,
 10 Mr. Tucker says, "I know that Edgewood has filed
 11 an application for a major alteration of the CI
 12 master plan that, if approved, would expand the
 13 allowable uses of the athletic field and largely
 14 make this discussion moot, at least with respect
 15 to future uses." Did I read that correctly?
 16 A Yes.
 17 Q And Mr. Tucker then says, "In such instances, our
 18 internal policy is to suspend enforcement action
 19 pending the result of the application for major
 20 alteration." Did I read that correctly?
 21 A Yes.
 22 Q And he says, "If the application for major
 23 alteration is denied, then the city will send a
 24 formal notice of violation, and at that time we
 25 can discuss how Edgewood wishes to proceed."

Page 165

1 Did I read that correctly?
 2 A Yes.
 3 Q Okay. Were you aware in November of 2018 that
 4 the city was not going to enforce any use of
 5 Edgewood's athletic field because it had an
 6 amendment to its master plan pending?
 7 A I was aware of this, yes.
 8 Q Okay. Are you aware of whether representatives of
 9 the city had discussions with representatives from
 10 Edgewood about the issue of legal nonconforming
 11 use?
 12 A No.
 13 Q Were you aware or ever told by anyone in the
 14 city that there was a process to go through for
 15 a use -- a legal nonconforming use being
 16 certified?
 17 A I don't recall any conversations on that.
 18 Q Okay. Do you know whether such conversations
 19 occurred with other representatives from Edgewood,
 20 that is the process for a legal nonconforming use
 21 being certified?
 22 A I don't.
 23 Q Okay. Not aware one way or the other whether --
 24 A Right.
 25 Q Okay.

Page 166

1 (Exhibit No. 67 marked for
 2 identification)
 3 MS. ZYLSTRA: 66?
 4 COURT REPORTER: 67.
 5 MS. ZYLSTRA: 67. Thank you.
 6 Q With respect to Edgewood's desire to amend its
 7 master plan and put in a sound system and lights
 8 and additional seating, did Edgewood procure a
 9 sound study?
 10 A Yes.
 11 Q Okay. And is Exhibit 67 the sound study by
 12 TALASKE related to Edgewood's proposal to add
 13 lights and a sound system and additional seating
 14 to the Goodman Athletic Complex?
 15 A Yes.
 16 Q Okay. And turning to page 3 of the sound study,
 17 there is an indication that TALASKE had peak
 18 levels of noise that ranged from 68.5 to 75.8
 19 decibels with an average of 72.5 decibels;
 20 correct?
 21 A Correct.
 22 Q Okay. Do you know what, if anything, was
 23 occurring when TALASKE measured those peak levels?
 24 A As far as --
 25 MR. INGRISANO: Objection. Form.

Page 167

1 Go ahead.
 2 A As far as on Monroe Street or on the field or what
 3 are you --
 4 Q On Edgewood's campus.
 5 A I can't answer that.
 6 Q All right. Fair enough. If you turn the page to
 7 page 4, in figure 2 and figure 3 they're showing a
 8 graph of -- graphical depiction of the ambient
 9 noise measurements. Well, I should rephrase that.
 10 Okay. So figure 2 and figure 3 are
 11 depictions by TALASKE of the noise levels that
 12 were being recorded; correct?
 13 MR. INGRISANO: Objection. Form,
 14 foundation.
 15 A I believe so.
 16 Q Okay. In both figures 2 and figures 3, do they
 17 indicate when those measurements were taken?
 18 A As far as the date or the time?
 19 Q Correct. The date.
 20 A Yes.
 21 Q And what date is that?
 22 A Late afternoon, the 6th of December 2018.
 23 Q Thank you, sir. Do you know whether there was any
 24 use of the field by any Edgewood athletic team in
 25 the late afternoon on December 6 of 2018?

Page 168

1 A I don't know.
 2 Q Okay.
 3 (Exhibit No. 68 marked for
 4 identification)
 5 MS. ZYLSTRA: Did I give you more
 6 than one copy?
 7 MR. INGRISANO: No.
 8 MS. ZYLSTRA: Okay. Sorry.
 9 Q Sir, I'm showing you what's been marked as
 10 Exhibit 68.
 11 MR. STERETT: Thank you.
 12 Q This is an email from Brian Munson to Alder Allen
 13 Arnsten, of which you are cced; correct?
 14 A Correct.
 15 Q Okay. And the date of this email is January 4,
 16 2019; correct?
 17 A Yes.
 18 Q And Mr. Munson writes, "Attached please find a
 19 copy of the 2018 field usage schedule." Did I
 20 read that correctly?
 21 A Yes.
 22 Q Okay. And turning to the last page of the
 23 document, there is a list identifying Goodman
 24 field at Edgewood High School 2018. Do you see
 25 that, sir?

<p style="text-align: right;">Page 169</p> <p>1 A Yes.</p> <p>2 Q Okay. And it appears to be identifying the usage</p> <p>3 of the Goodman field for all the dates in 2018;</p> <p>4 correct?</p> <p>5 A Correct.</p> <p>6 Q And is there any activities listed for December 6,</p> <p>7 2018?</p> <p>8 A No.</p> <p>9 Q Okay. Sir, are you aware in the course of trying</p> <p>10 to obtain lights and a sound system for Edgewood</p> <p>11 that the neighbors commissioned their own sound</p> <p>12 study separate from Edgewood's?</p> <p>13 A Yes.</p> <p>14 Q Okay.</p> <p>15 (Exhibit No. 69 marked for</p> <p>16 identification)</p> <p>17 Q Sir, I'm showing you what's been marked as</p> <p>18 Exhibit 69. Do you recognize this as the sound</p> <p>19 study that the neighbors presented as it relates</p> <p>20 to Edgewood's proposal for lights and a sound</p> <p>21 system?</p> <p>22 A I honestly never saw their sound study.</p> <p>23 Q Okay. On page 2 it identifies the company that</p> <p>24 was involved in the sound study as Wise</p> <p>25 Associates. Do you see that?</p>	<p style="text-align: right;">Page 171</p> <p>1 neighbors and the neighborhood associations wanted</p> <p>2 Edgewood to do, that is to invest and pay for a</p> <p>3 sound barrier as part of its proposal; correct?</p> <p>4 A No. Not correct. We met with them on a Saturday</p> <p>5 morning, and they couldn't agree. Some people</p> <p>6 thought a sound barrier would be good and others</p> <p>7 didn't want to have to look at that ugly thing.</p> <p>8 Q Okay. At least some of the neighbors expressed an</p> <p>9 interest in a sound barrier, although there wasn't</p> <p>10 agreement; correct?</p> <p>11 A Correct.</p> <p>12 Q Mr. Elliott, I am showing you what's been</p> <p>13 previously marked in another deposition as</p> <p>14 Exhibit 6. This is a letter from Matt Tucker to</p> <p>15 you dated February 27, 2019; correct?</p> <p>16 A Correct.</p> <p>17 Q Okay. And attached to the letter is a letter to</p> <p>18 the Edgewood family dated February 22, 2019;</p> <p>19 correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. And attached to that letter is a February</p> <p>22 2019 answers to frequently asked questions;</p> <p>23 correct?</p> <p>24 A Correct.</p> <p>25 Q Okay. And were you involved in the drafting of</p>
<p style="text-align: right;">Page 170</p> <p>1 A Yes.</p> <p>2 Q Do you know whether Edgewood has ever used</p> <p>3 Wise Associates for any projects?</p> <p>4 A I don't.</p> <p>5 Q Okay. And, I'm sorry, if we could go back to</p> <p>6 Exhibit -- I'm sorry. I had it right here.</p> <p>7 Exhibit 67, which is the sound study by TALASKE.</p> <p>8 A Got it.</p> <p>9 Q Okay. If you'd turn to page 10 of the sound</p> <p>10 study, it's also City 3232. There is a heading</p> <p>11 midway down that says Possible Noise Barrier. Do</p> <p>12 you see that, sir?</p> <p>13 A Yes.</p> <p>14 Q Okay. And TALASKE had suggested that if you</p> <p>15 wanted to further mitigate the impact to the</p> <p>16 surrounding area in terms of noise that a noise</p> <p>17 control or a sound barrier could be erected;</p> <p>18 correct?</p> <p>19 MR. INGRISANO: Objection. Form.</p> <p>20 A Correct.</p> <p>21 Q Okay. That's what you understood; correct?</p> <p>22 A Uh-huh. Yes.</p> <p>23 (Mr. Jean-Louis reentered the</p> <p>24 proceedings)</p> <p>25 Q Thank you. And that's something that the</p>	<p style="text-align: right;">Page 172</p> <p>1 the letter and the response to the questions?</p> <p>2 A I was part of a committee that did that.</p> <p>3 Q Okay. And turning to the frequently asked</p> <p>4 questions, the very first question -- I'm sorry.</p> <p>5 Let me see.</p> <p>6 The third question down says, "If lighting</p> <p>7 and sound did not require an amendment to the</p> <p>8 master plan, why did Edgewood High School include</p> <p>9 these items in its recent addendum request to the</p> <p>10 City Plan Commission?" Do you see that question?</p> <p>11 A Yes.</p> <p>12 Q Okay. And the answer there is, "When we first</p> <p>13 began exploring the option of installing a</p> <p>14 permanent structure for seating, concessions,</p> <p>15 restrooms and storage over two years ago, we were</p> <p>16 instructed by city staff that we needed to amend</p> <p>17 our master plan for these upgrades. We also</p> <p>18 believed at the time that lighting and sound would</p> <p>19 require an amendment. It was not until recently</p> <p>20 that we learned that lighting and sound were</p> <p>21 regulated by city ordinances and did not require</p> <p>22 an amendment to the master plan." Did I read that</p> <p>23 correctly?</p> <p>24 A Yes.</p> <p>25 Q Okay. So prior to February of 2019, you believed</p>

<p style="text-align: right;">Page 173</p> <p>1 that an amendment to the master plan was required</p> <p>2 for any lighting and sound; correct?</p> <p>3 MR. INGRISANO: Objection. Form.</p> <p>4 A At the beginning we did believe that.</p> <p>5 Q Okay. And then around the time of February of</p> <p>6 2019, you say there that you learned that lighting</p> <p>7 and sound did not require an amendment; correct?</p> <p>8 A Based on the letter we received, yes.</p> <p>9 Q Well, who told you or how did you learn that</p> <p>10 lighting and sound did not require an amendment to</p> <p>11 the master plan?</p> <p>12 A We were getting advice from both our technician</p> <p>13 and from our legal people.</p> <p>14 Q Okay.</p> <p>15 A Or not legal. Brian Munson, who was with</p> <p>16 Vandewalle & Associates.</p> <p>17 Q Okay. So as I understood it, Brian Munson told</p> <p>18 you that you did not require an amendment to your</p> <p>19 master plan for lighting and sound?</p> <p>20 A That they didn't think it was necessary.</p> <p>21 Q When you say "they," who are you referring to?</p> <p>22 A Brian Munson and either Katie Rist or Matt Lee.</p> <p>23 Q Okay.</p> <p>24 A Nathan Wautier.</p> <p>25 Q Do you know what Brian Munson's bases were for</p>	<p style="text-align: right;">Page 175</p> <p>1 Athletic Complex if the permit for lighting is</p> <p>2 granted by the city?" Do you see that, sir?</p> <p>3 I'm sorry. It's on the question and answer</p> <p>4 as part of Exhibit 6.</p> <p>5 A Oh.</p> <p>6 Q Okay. So let me try that again. The last</p> <p>7 question on Exhibit 6, the first page of the</p> <p>8 question-and-answer session.</p> <p>9 A Okay. And the last question on that page?</p> <p>10 Q Yeah. It says, "Is Edgewood High School planning</p> <p>11 to host night games at the Goodman Athletic</p> <p>12 Complex if the permit for lighting is granted by</p> <p>13 the city?" Do you see that question there, sir?</p> <p>14 A Yes.</p> <p>15 Q And the answer there is yes; correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. And that was the purpose for the lighting</p> <p>18 application to the city in February of '19. That</p> <p>19 is, to be able to host night games; correct?</p> <p>20 MR. INGRISANO: Objection. Form.</p> <p>21 A Not just night games. I mean, there is lots of</p> <p>22 different activities that we wanted to be able to</p> <p>23 host that would meet our mission. Retreats and</p> <p>24 partnerships with other organizations, being able</p> <p>25 to let other schools use the field. There is only</p>
<p style="text-align: right;">Page 174</p> <p>1 telling you that you did not need to amend your</p> <p>2 master plan for lighting and sound?</p> <p>3 A I do not know.</p> <p>4 Q Do you know what Mr. Munson's experience was with</p> <p>5 amendments to master plans?</p> <p>6 A I don't know.</p> <p>7 MS. ZYLSTRA: Okay. Counsel, are</p> <p>8 you going to claim privilege with respect to</p> <p>9 the communications with Katie Rist, Matt Lee,</p> <p>10 or Nathan Wautier regarding that topic?</p> <p>11 MR. INGRISANO: Yes.</p> <p>12 MS. ZYLSTRA: Okay.</p> <p>13 Q You referred in your answer to a technician.</p> <p>14 To whom did you mean when you referred to a</p> <p>15 technician?</p> <p>16 A We were getting additional information back from</p> <p>17 our sound study.</p> <p>18 Q And what information from the sound study led you</p> <p>19 to conclude that it did not require an amendment</p> <p>20 to the master plan?</p> <p>21 A I did not have that conversation. So I do not</p> <p>22 know.</p> <p>23 Q Okay. And then two questions down on the question</p> <p>24 and answer it says, "Is Edgewood High School</p> <p>25 planning to host night games at the Goodman</p>	<p style="text-align: right;">Page 176</p> <p>1 so many light hours in a day, and the more that we</p> <p>2 could be able to light the field would increase</p> <p>3 the usage for meeting our mission for classes,</p> <p>4 for, as I said before, retreats, giving us the</p> <p>5 ability to hold different classes out there,</p> <p>6 science classes.</p> <p>7 So it was not just for night games. It was</p> <p>8 for helping us fulfill our mission through</p> <p>9 building community and partnerships.</p> <p>10 Q There is nothing in the question and answer</p> <p>11 responses to indicate that you wanted lights for</p> <p>12 purposes of your practices or physical education</p> <p>13 classes; true?</p> <p>14 A As I said, a committee did that. I'm not sure</p> <p>15 what they all included.</p> <p>16 Q Are you aware of any communications with the city</p> <p>17 in February of 2019 that the lighting was for</p> <p>18 purposes of practices and physical education?</p> <p>19 A Yes.</p> <p>20 Q And what communications are those?</p> <p>21 A I believe it was just feedback that we could get</p> <p>22 lights without amending the master plan for our</p> <p>23 physical education and our classes that we held</p> <p>24 out there.</p> <p>25 Q Did you have any of those communications yourself,</p>

<p style="text-align: right;">Page 177</p> <p>1 sir, with any of the city personnel on that issue?</p> <p>2 A Not that I recall.</p> <p>3 Q Okay. So what is your basis for suggesting there</p> <p>4 were communications with the city with regard</p> <p>5 to -- specifically with regard to lights for</p> <p>6 physical education classes and practices?</p> <p>7 A Can you repeat your question so I --</p> <p>8 Q Sure. I'm asking whether there were</p> <p>9 communications with the city in February of 2019</p> <p>10 that the lights would be used for physical</p> <p>11 education and practices, and you suggested there</p> <p>12 were some communications but you yourself did not</p> <p>13 have any. I'm wondering who had those</p> <p>14 communications?</p> <p>15 A I believe it was our team that was working on the</p> <p>16 lights, whether it was Brian Munson or Nathan that</p> <p>17 had had conversations.</p> <p>18 Q Okay. But as you sit here today, sir, you're not</p> <p>19 aware of who specifically talked with what -- who</p> <p>20 specifically at the city as to your intention to</p> <p>21 use lights for physical education classes or</p> <p>22 practices; fair?</p> <p>23 A Fair.</p> <p>24 Q Okay. Are you aware of any physical education</p> <p>25 classes that Edgewood holds at night?</p>	<p style="text-align: right;">Page 179</p> <p>1 letter before, sir?</p> <p>2 A I've seen it before.</p> <p>3 Q Okay. At least at the beginning of the letter</p> <p>4 it's an indication that Mr. Wautier represented</p> <p>5 Edgewood High School at the time that he wrote</p> <p>6 this letter; correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. In the second paragraph down, Mr. Wautier</p> <p>9 is referring to what he calls the revocation of</p> <p>10 the prior approval with regard to lights. Do you</p> <p>11 see that?</p> <p>12 A Yes.</p> <p>13 Q Okay. He begins that paragraph, "It has come to</p> <p>14 my attention." My question to you, sir, is do you</p> <p>15 have any knowledge how or from whom Mr. Wautier --</p> <p>16 this matter came to his attention?</p> <p>17 A I don't know that.</p> <p>18 Q Do you know if Mr. Wautier had any communications</p> <p>19 with the city with regard to the application for</p> <p>20 lights for Edgewood?</p> <p>21 MR. INGRISANO: Objection. Form.</p> <p>22 Foundation. Go ahead.</p> <p>23 A I don't know.</p> <p>24 Q Okay. Fair enough, sir. Just asking.</p> <p>25 Did you have any communications with the city</p>
<p style="text-align: right;">Page 178</p> <p>1 A We have had physical education classes late</p> <p>2 afternoon, but obviously at night they have to</p> <p>3 cease because of darkness.</p> <p>4 Q Sure. Edgewood has not arranged for any of its</p> <p>5 physical education classes to occur at other</p> <p>6 fields with lights off site; correct?</p> <p>7 A Correct.</p> <p>8 Q Okay. And with respect to team practices, has</p> <p>9 Edgewood arranged for any night team practices to</p> <p>10 occur under the lights at other venues?</p> <p>11 A No.</p> <p>12 Q Okay.</p> <p>13 A On my last answer, I would like to change to</p> <p>14 not -- I'm not aware of -- our athletic director</p> <p>15 handles those kind of things. I don't schedule</p> <p>16 practices, so I'm saying as far as to the best of</p> <p>17 my knowledge, but I'm not saying that it hasn't</p> <p>18 happened because he may have done something.</p> <p>19 Q Fair enough, sir. Understood.</p> <p>20 (Exhibit No. 70 marked for</p> <p>21 identification)</p> <p>22 Q Sir, I'm showing you what's been marked as</p> <p>23 Exhibit 70. I'll represent to you that this is a</p> <p>24 letter that the city received from Attorney Nathan</p> <p>25 Wautier dated March 12, 2019. Have you seen this</p>	<p style="text-align: right;">Page 180</p> <p>1 regarding its interpretation as it relates to</p> <p>2 Edgewood's February 2019 lighting application?</p> <p>3 A Not that I can recall.</p> <p>4 (Exhibit No. 71 marked for</p> <p>5 identification)</p> <p>6 Q Mr. Elliott, I'm showing you Exhibit 71. I'll</p> <p>7 represent to you this is a letter from City</p> <p>8 Attorney -- Assistant City Attorney John Strange</p> <p>9 to Mr. Wautier dated March 21, 2019. Have you</p> <p>10 seen this document before?</p> <p>11 A I don't recall seeing this.</p> <p>12 Q Okay. I'm going to ask you a few questions to see</p> <p>13 whether or not you have certain knowledge.</p> <p>14 I want to point out the second paragraph, the</p> <p>15 last sentence. I want to direct your attention.</p> <p>16 Mr. Strange writes, "In addition, because the</p> <p>17 lights are part and parcel of a plan to conduct</p> <p>18 athletic contests at night, neither the lights nor</p> <p>19 the athletic contests are in compliance with the</p> <p>20 campus master plan." Did I read that correctly?</p> <p>21 A Yes.</p> <p>22 Q Okay. And turning to page 4, and I'm looking at</p> <p>23 the first paragraph directing your attention to</p> <p>24 the last sentence there. He writes, "Since the</p> <p>25 stadium lights are neither shown on nor mentioned</p>

Page 181

1 in the campus master plan, the campus master plan
 2 must be amended per MGO Section 28.097(10)." Did
 3 I read that correctly?
 4 A Yes.
 5 Q And then skipping down to the paragraph at the end
 6 of that page, Mr. Strange writes, "To that end, as
 7 shown above, Edgewood's application was never in
 8 compliance with zoning at the time its lighting
 9 application was filed because the lights were not
 10 identified as improvements at the athletic field
 11 and therefore are simply not allowed absent
 12 additional Plan Commission approval." Did I read
 13 that correctly?
 14 A Yes.
 15 Q Okay. You understood from communications from the
 16 city to your attorney that Edgewood's February
 17 2019 lighting application was being denied;
 18 correct?
 19 A I did not.
 20 Q Is it your belief that the February 2019
 21 application could go forward?
 22 A I thought that was still being debated.
 23 Q Okay. At minimum, you understood that the
 24 February 2019 application for lights by Edgewood
 25 was -- had not been approved; correct?

Page 182

1 MR. INGRISANO: Objection. Form.
 2 Foundation.
 3 A No. I was -- Between letters that stated we
 4 didn't have to do the master plan, didn't have to
 5 redo it, that we had -- the lighting permit was
 6 okay and these, I didn't have a clear picture of
 7 what was going on with regards to what we had to
 8 do and what we could do.
 9 Q Okay. So you didn't know one way or the other in
 10 February and March of 2019 whether Edgewood could
 11 install lights?
 12 A I thought that's what we were still working on
 13 trying to be able to do.
 14 Q Okay. Still working on means that it wasn't yet
 15 approved; correct?
 16 MR. INGRISANO: Objection. Form,
 17 foundation. Calls for a legal conclusion.
 18 A That it wasn't yet denied.
 19 Q Okay. And if it wasn't yet denied, it also wasn't
 20 yet approved?
 21 MR. INGRISANO: Objection. Form.
 22 Argumentative.
 23 A I thought that based on the letter from Matt
 24 Tucker the lighting permit was approved and we
 25 didn't have to amend the master plan. That's the

Page 183

1 last thing that I had felt told us that we had the
 2 right to do that.
 3 Q Okay. But Exhibit 70 from your own attorney --
 4 A 70?
 5 Q 70. Exhibit 70.
 6 A Okay.
 7 Q Mr. Wautier writes, "It's come to my attention,"
 8 in paragraph 2 on Exhibit 70. First page,
 9 paragraph 2 of Exhibit 70.
 10 A Yes.
 11 Q "It has come to my attention that the City of
 12 Madison is considering the revocation of its prior
 13 approval of the compliant application based upon a
 14 new zoning interpretation for the Edgewood campus
 15 that light poles of any height are not allowed!"
 16 Do you see that, sir?
 17 A Yes.
 18 Q You understood at least with respect to
 19 Mr. Wautier's letter that the question of whether
 20 or not Edgewood could go forward with its lights
 21 was being considered, at least under Mr. Wautier's
 22 interpretation, as being revoked; correct?
 23 MR. INGRISANO: Objection. Form.
 24 MS. ZYLSTRA: Good objection. Let
 25 me rephrase that.

Page 184

1 Q You understood from this letter of Mr. Wautier
 2 that the question of revocation of the application
 3 for lights was being considered; correct?
 4 MR. INGRISANO: Objection. Form.
 5 Mischaracterizes. Revocation of its prior
 6 approval is what Mr. Wautier's letter says.
 7 Q You can answer the question, sir.
 8 A I felt that this -- it was still alive and that we
 9 still had the opportunity.
 10 Q So you're saying that Mr. -- with respect to
 11 Exhibit 71, the city's response to Mr. Wautier,
 12 that's a document you said you've seen; correct?
 13 MR. INGRISANO: Objection. Form.
 14 Mischaracterizes.
 15 Q Fair enough. I don't recall one way or the other.
 16 Mr. Elliott, did you indicate that you had
 17 seen Exhibit 71 before?
 18 A I -- I believe I saw this before.
 19 Q Okay. And at least with respect to this letter,
 20 did you understand the city to be contending that
 21 Edgewood's lighting application was not in
 22 compliance with its master plan?
 23 MR. INGRISANO: Objection. Form.
 24 Vague as to time.
 25 A I'll be honest. It was hard with all the

Page 185

1 different letters going back and forth as to who
 2 was doing what and what was happening. I felt
 3 that at this point that we still had -- it was
 4 being discussed between the parties and that we
 5 still had the opportunity to get our lights.
 6 Q In terms of moving forward to install lights, did
 7 Edgewood ever pull the permit or its contractor
 8 pull the permit, if you know?
 9 MR. INGRISANO: Objection. Form.
 10 A I believe there were two permits pulled for
 11 Edgewood to do their lights.
 12 Q And when were those permits pulled, if you know?
 13 A I don't know that.
 14 Q And do you know who pulled the permits?
 15 A I don't.
 16 Q Okay. How do you know the permits were pulled?
 17 A Because I was told there was two different permits
 18 submitted.
 19 Q Okay. And who told you there were two different
 20 permits submitted?
 21 A I don't remember which person told me that.
 22 Q Okay. Are you certain it was in reference to the
 23 February 2019 lighting application as opposed to
 24 other applications by Edgewood?
 25 A I'm not -- I'm not sure which. I just know there

Page 186

1 were two permits that were sent in. The first
 2 one -- the first I believe was in February, and
 3 then there was another one submitted after that.
 4 I'm not sure when the time was.
 5 Q Okay. Do you know whether Edgewood took any
 6 action from the time of Mr. Tucker's letter dated
 7 February 27 through present in terms of moving
 8 forward to actually install lights at its athletic
 9 field?
 10 A We have not moved forward to install lights.
 11 Q Do you agree, Mr. Elliott, that Mr. Tucker has
 12 been telling Edgewood at least since 2017 that if
 13 Edgewood wanted to play night games that such was
 14 a change in use that required amendment to its
 15 master plan?
 16 A There was a period of time that we were going down
 17 that -- we were going that direction, and then I
 18 believe we had to completely pivot and switch
 19 because we were told that we didn't have to or
 20 that we needed to repeal the master plan and that
 21 was the best direction to go based on the city
 22 attorney.
 23 (Exhibit No. 72 marked for
 24 identification)
 25 Q Mr. Elliott, I'm showing you what's been marked as

Page 187

1 Exhibit 72. I'll give you a second to review that
 2 document.
 3 A Yes.
 4 Q Okay. This is an email exchange between you and
 5 Mark Landgraf dated March 7 of 2017; correct?
 6 A Yes.
 7 Q And who is Mark Landgraf?
 8 A A parent of an Edgewood student.
 9 Q Okay. And the Re line or the subject line is
 10 Re: Matt Tucker; correct?
 11 A Yes.
 12 Q Okay. And starting at the very bottom, the first
 13 email is from Mark to you, and it says, "How did
 14 everything go, Mike, with Matt?" Do you see that?
 15 A Yes.
 16 Q And your response was, "They do not feel the
 17 current master plan would let us proceed with a
 18 modified stadium. Night use is the issue and it
 19 is in their mind a new or different usage.
 20 They" -- I'm assuming, sir, you meant recommend --
 21 "we continue to work with neighbors for an
 22 agreement." Do you see that language, sir?
 23 A Yes.
 24 Q And then you also write, "They feel we eliminated
 25 the issues of traffic, parking and lights. Usage,

Page 188

1 number of events and sound are the two they feel
 2 we may need to limit and work on." Do you see
 3 that?
 4 A Yes.
 5 Q Okay. You had a meeting with Matt Tucker back
 6 around this time period of March of 2017; correct?
 7 A I don't recall.
 8 Q Okay. Well, at least according to your email
 9 Mr. Tucker at some point expressed to you that
 10 night use of your field was a new or a different
 11 usage; correct?
 12 A He -- yes.
 13 Q Okay. And that's something that hasn't changed.
 14 That is, that Mr. Tucker has repeatedly said to
 15 you that usage of your field for night games was a
 16 change that required an amendment to the master
 17 plan. At least he expressed that up until the
 18 time you repealed your master plan; correct?
 19 MR. INGRISANO: Objection. Form.
 20 A Most of this time -- from the very beginning,
 21 there was five issues, and we worked really hard
 22 to minimize those issues or eliminate them. And
 23 the traffic was the first one, and it was going to
 24 be a mess and a nightmare and it never really
 25 happened. And then parking, we were going to have

<p style="text-align: right;">Page 189</p> <p>1 people parking all over the city -- or excuse me, 2 all over the neighborhood, and that wasn't an 3 issue. Then when we had lights that met the city 4 code and ordinances and stopped at our property 5 line, it became noise. What noise had to do with 6 our light ordinance was beyond us. 7 So there has been a lot of different things 8 said in the timing of this where we were 9 challenging them, so we continued to -- I 10 continued to feel that there was the opportunity 11 to continue to argue our case because there has 12 been 50 different things that we've been told on 13 this process over many years, and so it's hard to 14 keep score at times with regards to who said what, 15 what date it was, what meeting it was, and whether 16 or not that person's position has changed from the 17 last letter. 18 And so I don't know that I can agree that 19 it's clear where we stand, whether it's with 20 Tim Parks or Matt. 21 Q And just to be clear, because I think your answer 22 was broader than my question. I'm focusing 23 specifically on night games. 24 A Uh-huh. 25 Q The ability to play games at night on your field.</p>	<p style="text-align: right;">Page 191</p> <p>1 frequently asked questions document relating to 2 the institution's present interest to install 3 lights and an amplified sound system at the field 4 (copy attached). These letters indicate that 5 Edgewood intends to use the lights and sound 6 system to host night games at the facility." 7 And then he goes on and he says, "Based on 8 the information the city currently has regarding 9 the historical use of the facility, it would 10 appear that the intended use of the city as 11 outlined in your letter to the Edgewood family and 12 described in the frequently asked questions 13 document would conflict with the approved 2014 14 master plan for the site which limits use of the 15 facility to team practices, physical education 16 classes." 17 Did I read that correctly? 18 A Correct. 19 Q And he goes on to say that the purpose of the 20 letter is to inform you that the issuance of any 21 lighting permit under MGO Section 10.085 does not 22 change the city's position that the use of the 23 facility under a master plan is limited to team 24 practices, physical education classes; correct? 25 A That's what his letter states.</p>
<p style="text-align: right;">Page 190</p> <p>1 Matt Tucker has been consistent with Edgewood that 2 such use is not allowed under the current master 3 plan and therefore either an amendment to the 4 master plan or repeal of the master plan was 5 needed for that; correct? 6 MR. INGRISANO: Objection. Form. 7 Q Going all the way back to 2017. 8 A So I look at the February 27 letter that says the 9 city believes this permit can be issued without 10 requiring amendment of the approved 2014 master 11 plan. 12 Q Yes, sir. Let's look at Exhibit 6. 13 A 6? 14 Q Sure. You're looking at that letter you just 15 referred to, the February 27 letter. 16 A Oh, is that 6? Okay. 17 Q Mr. Tucker says that while -- and let's just read 18 that. You're referencing paragraph 2, that the 19 city believes this permit can be issued without 20 requiring amendment of the approved 2014 master 21 plan; correct? 22 A Correct. 23 Q But continue reading there, sir. He says, 24 "However, over the past weekend I received a copy 25 of the letter sent to Edgewood family and a</p>	<p style="text-align: right;">Page 192</p> <p>1 Q He is not changing his position that Edgewood is 2 not allowed to hold night games; correct? 3 MR. INGRISANO: Objection. Form. 4 Argumentative. He's saying no games are 5 allowed on the field. 6 Q Mr. Tucker is not changing his position that 7 Edgewood cannot play night games on its field; 8 correct? 9 MR. INGRISANO: Objection. Form. 10 A I feel -- I don't agree with that. 11 Q You believe in this letter Mr. Tucker is giving 12 permission to Edgewood to play night games on its 13 field? 14 A No, but I don't believe that we -- we're in 15 agreement with him, to his interpretation, and for 16 that I think we were continuing to move forward to 17 argue the case. 18 Q I agree with you, sir. I agree you weren't in 19 agreement. 20 But in terms of my question initially, which 21 was whether Mr. Tucker has been consistent that 22 Edgewood is not allowed to play night games on its 23 field, you agree that he has been consistent that 24 Edgewood cannot play night games on its field 25 absent an amendment to the master plan or repeal</p>

Page 193

1 of the master plan?

2 MR. INGRISANO: Objection. Form.

3 A I can't answer that. I would have -- I don't know

4 all the different letters and things that we've

5 been told.

6 Q Is there any letter or writing that you're aware

7 of where Mr. Tucker has said that Edgewood can

8 play night games on its field?

9 A I don't know.

10 Q You're not aware of one as you sit here today?

11 A I'm not aware of one.

12 Q Okay. Are you aware of any verbal conversation

13 that you or any representative has had with

14 Edgewood in which Mr. Tucker has said that

15 Edgewood can play night games on its field?

16 A Early on I feel there was conversations of how we

17 could get that done, and we've tried multiple

18 directions and been changed in those directions

19 multiple times by the city, and so it seems to me

20 that there has been a constant commitment to not

21 let Edgewood have this for I don't know what

22 reason, and it's just gone around and around in

23 circles for us being put through another loop or a

24 different change for trying to get the lights.

25 MS. ZYLSTRA: I'll move to strike.

Page 194

1 Q My question, sir, is are you aware of any verbal

2 conversation in which Mr. Tucker indicated that

3 Edgewood could play night games on its field?

4 A And my answer was that I believe there was early

5 on conversations on how we could go about this.

6 Q Okay. So that not that you could currently but

7 that there would be a process by which you

8 potentially in the future could; correct?

9 A Yes.

10 Q Okay.

11 (Exhibit No. 73 marked for

12 identification)

13 MR. INGRISANO: Can we take a

14 break?

15 MS. ZYLSTRA: Sure.

16 MR. STERETT: Sorry. Too many

17 Cokes.

18 MR. HANSEN: Going off the record

19 at 3:26.

20 (Recess)

21 (Mr. Jean-Louis exited the

22 proceedings)

23 MR. HANSEN: We're back on the

24 record at 3:37.

25 Q Mr. Elliott, before the break you got handed an

Page 195

1 Exhibit 73. Do you see that, sir?

2 A I do.

3 Q The top of it is an email from you to Maggie

4 Balistreri-Clarke dated November 5, 2014; correct?

5 A Correct.

6 Q And that's an email that you wrote to

7 Ms. Balistreri; correct?

8 A Yes.

9 Q Okay. And in the interest of time, I think I'm

10 going to move on.

11 MR. INGRISANO: Thank you.

12 Q Mr. Elliott, I'm showing you two documents that

13 have been marked in a prior deposition, Exhibit 9

14 and Exhibit 11. Do you see those?

15 A Yes.

16 Q Do you recognize these documents as notices that

17 Edgewood received from the city regarding the

18 matters discussed in the complaint?

19 MR. INGRISANO: Objection. Form.

20 MS. ZYLSTRA: I'll rephrase.

21 Q Do you recognize these notices, Mr. Elliott?

22 A I do.

23 Q Okay. And these notices were, in essence,

24 warnings that were issued to Edgewood regarding

25 use of its athletic field; correct?

Page 196

1 A Correct.

2 Q Okay. Was Edgewood actually fined or received any

3 kind of citation in which they had to pay any

4 fine?

5 A Not that I recall.

6 Q Okay. Now, with respect to those official

7 notices, Edgewood appealed those notices of

8 violation; correct?

9 A I believe so.

10 (Exhibit No. 74 marked for

11 identification)

12 MR. INGRISANO: Thank you. 74?

13 MS. ZYLSTRA: Yes.

14 MR. INGRISANO: Thank you.

15 Q Mr. Elliott, I'm showing you what's been marked as

16 Exhibit 74. This is a letter from Attorney Matt

17 Lee to the city dated May 31, 2019; correct?

18 A Correct.

19 Q And he indicates that, "Enclosed please find an

20 Appeal Application and Edgewood High School of

21 The Sacred Heart's Statement of Grounds for the

22 Appeal of the City of Madison's Official Notices

23 dated April 1, 2019, and May 15, 2019, for

24 Consideration at the June 20, 2019, Meeting of

25 the Zoning Board of Appeals." Did I read that

<p style="text-align: right;">Page 197</p> <p>1 correctly?</p> <p>2 A Yes.</p> <p>3 Q Okay. And Matt Lee was the attorney for Edgewood</p> <p>4 High School at the time; correct?</p> <p>5 A Correct.</p> <p>6 Q Okay. And this is the notice of appeal, if you</p> <p>7 will, of Edgewood relating to those notices that</p> <p>8 were Exhibits 9 and 11; correct?</p> <p>9 A Correct.</p> <p>10 Q Okay. Now, while the appeal of those notices were</p> <p>11 in process, was Edgewood still meeting with the</p> <p>12 neighborhood association to try and come up to</p> <p>13 some resolution with regard to use of its field?</p> <p>14 A I believe so.</p> <p>15 Q Okay.</p> <p>16 (Exhibit No. 75 marked for</p> <p>17 identification)</p> <p>18 Q Sir, I'm showing you what's been marked as</p> <p>19 Exhibit 75. This document is entitled EHS</p> <p>20 Collaborative Workgroup Meeting April 30, 2019.</p> <p>21 Correct?</p> <p>22 A Correct.</p> <p>23 Q And at least participants, it lists you as a</p> <p>24 participant; correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 199</p> <p>1 A Correct.</p> <p>2 Q It says, "Our options include Breese, West,</p> <p>3 Memorial, Middleton" (but we couldn't work out an</p> <p>4 arrangement -- or excuse me, "(but we couldn't</p> <p>5 work out an agreement with them this year) and</p> <p>6 LaFollette." Did I read that correctly?</p> <p>7 A Correct.</p> <p>8 Q Okay. With respect to Middleton, Middleton wanted</p> <p>9 Edgewood to continue to use its field; correct?</p> <p>10 MR. INGRISANO: Objection.</p> <p>11 Foundation.</p> <p>12 A They were using their field a lot more than they</p> <p>13 had started using their field. They needed us to</p> <p>14 help them get their turf financially. And then</p> <p>15 the new agreement was such that it was</p> <p>16 dramatically more money, less usage, and so we</p> <p>17 couldn't put an agreement together with them to</p> <p>18 reup that timeframe.</p> <p>19 Q Okay. But in terms of that, Middleton was still</p> <p>20 offering to allow Edgewood to use its field for</p> <p>21 its games; correct?</p> <p>22 A Well, we weren't talking because it was crazy.</p> <p>23 I mean, they were going to put up a whole --</p> <p>24 you know, expanded bathrooms. They wanted us to</p> <p>25 give them 3 or \$400,000, and it was -- they were</p>
<p style="text-align: right;">Page 198</p> <p>1 Q Okay. This document says it's an unapproved draft</p> <p>2 of these minutes. I never saw an approved draft</p> <p>3 of the minutes. Do you know whether there is an</p> <p>4 approved draft of the minutes for this meeting?</p> <p>5 A I do not know.</p> <p>6 Q Okay.</p> <p>7 A There was a problem with -- I think we ended up</p> <p>8 not doing minutes because we had a problem with</p> <p>9 one of the members doing her own interpretation of</p> <p>10 the minutes and it was problematic. Problematic?</p> <p>11 Q Okay. If you turn to page 3 of this document.</p> <p>12 A Uh-huh.</p> <p>13 Q There is a heading that says Question 1 - Venues.</p> <p>14 Do you see that, sir?</p> <p>15 A No. Where?</p> <p>16 Q There is a heading midway down the page that says</p> <p>17 Question 1 - Venues.</p> <p>18 A I'm sorry.</p> <p>19 Q Page 3. I'm sorry.</p> <p>20 A Page 3. Yes, I see it.</p> <p>21 Q Okay. It says, "There was a question on what</p> <p>22 venues does EHS currently use for playing</p> <p>23 competitive games." And there is a bulleted</p> <p>24 response it appears by EHS. That would be</p> <p>25 Edgewood High School; correct?</p>	<p style="text-align: right;">Page 200</p> <p>1 looking for somebody that wanted to help -- who</p> <p>2 had the -- needed the seating capacity and the</p> <p>3 bathroom capacity and the concessions capacity, a</p> <p>4 whole new entrance. So when they let us -- those</p> <p>5 conversations stopped immediately because it</p> <p>6 was -- it wasn't -- we weren't going to pay -- we</p> <p>7 didn't need any of the things that they were</p> <p>8 asking us to pay for.</p> <p>9 Q Okay. So as I understand it, sir, when you say</p> <p>10 you couldn't work out an agreement, it's not that</p> <p>11 Middleton wasn't offering to let Edgewood use its</p> <p>12 field. It's that the terms were such that</p> <p>13 Edgewood did not feel they were appropriate; fair?</p> <p>14 A Correct.</p> <p>15 Q Okay.</p> <p>16 A And just these minutes, obviously West doesn't</p> <p>17 have a football field or any field to offer.</p> <p>18 Q Okay.</p> <p>19 A That was --</p> <p>20 Q And going on that page further up on the page,</p> <p>21 there is a question issue that says "EHS' ability</p> <p>22 to play competitive games." Do you see that, sir?</p> <p>23 On that same page, page 3, toward the top.</p> <p>24 A Yes.</p> <p>25 Q And the fifth bullet down says DMNS. It says,</p>

Page 201	Page 203
<p>1 "If you are granted the ability by the city to 2 move forward with the lights, will you?" Do you 3 see that, sir? 4 A Uh-huh. 5 Q Is that a yes? Do you see that, sir? 6 A I see, "If you are granted the ability by the city 7 to move forward with the lights, will you?" 8 Q Okay. And the Edgewood High School response says, 9 "No. We made a commitment to not proceed with 10 the lights while this group is still making 11 progress/positive progression and for the duration 12 of this process up to the next nine weeks." Did I 13 read that correctly? 14 A Yes. 15 Q Is that an accurate statement of Edgewood High 16 School's position at the time of this meeting? 17 A At the time of this meeting, yes. 18 Q Okay. 19 A And then this group decided to stop all meetings 20 because there was no progress being made and it 21 was expensive. 22 Q Fair enough. But at the time of this meeting, 23 Edgewood was not moving forward with the lights? 24 A Correct. 25 Q Okay. Now, your appeal with regard to use of your</p>	<p>1 as a transcript of the July 11, 2019, hearing on 2 Edgewood's appeal of the notices that we 3 previously looked at? 4 A I have never seen this nor have any knowledge of 5 it. 6 Q Okay. At least with respect, if you open to the 7 second page, there are what we call appearances. 8 Matt Lee, Nathan Wautier, and Noel Sterett are 9 listed as attorneys appearing; correct? 10 MR. INGRISANO: Objection. Form. 11 Q Okay. And with regard to your Zoning Board of 12 Appeals, do you recall Mr. Lee, Mr. Wautier, or 13 Mr. Sterett appearing on behalf of Edgewood at 14 that Zoning Board of Appeals meeting? 15 A I do. 16 Q Okay. Do you recall the Zoning Board of Appeals 17 voting unanimously to affirm the decision of the 18 zoning administrator as it relates to Edgewood's 19 ability to play competitive games on its field? 20 A Yes. 21 (Mr. Jean-Louis reentered the 22 proceedings) 23 Q Okay. And do you recall at this meeting that with 24 respect to the Zoning Board of Appeals decision, 25 that the arguments were not that Edgewood couldn't</p>
Page 202	Page 204
<p>1 athletic field went before the city's Zoning Board 2 of Appeals; correct? 3 A Correct. 4 Q Okay. And there was a hearing on that; correct? 5 A Correct. 6 (Exhibit No. 76 marked for 7 identification) 8 Q Did you attend that hearing, sir? 9 A I believe I did. I'm trying to think if that was 10 the one when they were Zooming. We had multiple 11 hearings. 12 Q Okay. 13 A I'm not sure if that was when the city -- 14 Q Well, I'll represent to you, sir, that the Zoning 15 Board of Appeals meeting was July 11, 2019. 16 A Okay. 17 Q Which is preCOVID. 18 A I attended it. 19 Q Okay. 20 MS. ZYLSTRA: I'm sorry. Is this 21 Exhibit 76 in front of you? 22 COURT REPORTER: Yes. 23 A Yes. 24 Q Okay. Sir, I believe this was provided by your 25 side, so to speak. Do you recognize this at all</p>	<p>1 hold games on its field but whether Edgewood had 2 to amend its master plan to be able to hold games 3 on its field? 4 MR. INGRISANO: Objection. Form. 5 A Yeah, I don't recall the legal information that it 6 was about. 7 Q Okay. Do you remember the city arguing that 8 position to the Zoning Board of Appeals, that is, 9 that the issue was not whether Edgewood could play 10 games on its field but whether they had to amend 11 the master plan in order to do so? 12 MR. INGRISANO: Objection. Form. 13 Asked and answered. 14 A I don't remember that. 15 Q Okay. 16 MR. INGRISANO: Thank you. 17 Q Mr. Elliott, I'm showing you what's been marked as 18 Exhibit 12 at a prior deposition. I'll represent 19 to you this is a letter from then City Attorney 20 Mike May to Edgewood's attorney Matt Lee dated 21 July 12, 2019. Do you see that? 22 A Yes. 23 Q Do you recognize this letter? 24 A I am not sure if I saw this letter. 25 Q Okay. Fair enough. All right. If you don't know</p>

<p style="text-align: right;">Page 205</p> <p>1 about this letter, sir, I'll put that aside. 2 MR. STERETT: Oh, sorry. 3 Q Mr. Elliott, I'm showing you Exhibit 22 that was 4 marked at a prior deposition. Do you recognize 5 this letter? 6 A I recognize this letter. 7 Q Okay. And turning to page 2, you're one of the 8 folks who signed this letter; correct? 9 A I am. 10 Q Okay. And this is a letter dated July 29, 2019; 11 correct? 12 A Correct. 13 Q And it begins that, "This will respond to City 14 Attorney Michael P. May's letter dated July 12, 15 2019, to Attorney Matt Lee inviting Edgewood 16 Campus School, Edgewood High School, and Edgewood 17 College (collectively, the 'Edgewood schools') to 18 request an early termination of their campus 19 master plan." Did I read that correctly? 20 A Yes. 21 Q Okay. So this letter at least is saying that it's 22 in response to Exhibit 12; correct? 23 A Yes. 24 Q All right. The next sentence says, "Please accept 25 this letter as the Edgewood Schools' formal</p>	<p style="text-align: right;">Page 207</p> <p>1 ordinance; correct? 2 A Correct. 3 Q And it was Alder Henak, H-e-n-a-k, who decided to 4 sponsor the resolution to repeal Edgewood's master 5 plan after the mayor withdrew her sponsorship; 6 correct? 7 A I believe that's true. 8 Q Okay. Now, did you understand that the process 9 for repealing the master plan would be that there 10 would be a public hearing before the Plan 11 Commission who would vote and then it would go to 12 the Common Council who would vote? 13 A I don't recall the exact strategy, but there were 14 two meetings. 15 Q Okay. Do you recall or are you aware that the 16 Plan Commission held a public hearing on the 17 proposed ordinance for Edgewood to repeal its 18 master plan on August 26 of 2019? 19 A Yes. 20 Q Okay. And there were a fair number of Edgewood's 21 neighbors and the neighborhood associations who 22 opposed the repeal of Edgewood's master plan; is 23 that fair? 24 MR. INGRISANO: Objection. Form. 25 Vague as to "fair number."</p>
<p style="text-align: right;">Page 206</p> <p>1 request and consent for the mayor to sponsor an 2 ordinance for immediate repeal of ORD-14-00082, 3 which established the ten-year campus master 4 plan." Did I read that correctly? 5 A Yes. 6 Q So this was the Edgewood campus's request that the 7 mayor sponsor an ordinance to repeal Edgewood's 8 master plan from 2014; correct? 9 A Correct. 10 Q Okay. And you understood that, because the 11 original master plan in 2014 was actually enacted 12 as an ordinance, that another ordinance needed to 13 be enacted to actually repeal the master plan; 14 correct? 15 MR. INGRISANO: Objection. Form. 16 Go ahead. 17 A Correct. 18 Q Okay. And the mayor initially agreed to sponsor 19 that ordinance for Edgewood for repeal; correct? 20 A Correct. 21 Q But then on August 21, 2019, Edgewood sued the 22 city; correct? 23 A Correct. 24 Q And after Edgewood sued the city, the mayor 25 indicated that she would no longer sponsor that</p>	<p style="text-align: right;">Page 208</p> <p>1 A Yeah, I think both parties had speakers that 2 wanted to make their, so I would say both parties 3 had representation. 4 Q Fair. So would you agree there were quite a 5 number of people that showed up both for and 6 against the proposal for Edgewood to repeal its 7 master plan -- 8 A Yes. 9 Q -- at the Plan Commission meeting in August? 10 A Yes. 11 Q Okay. Were you aware that there was another 12 neighborhood council besides Vilas Neighborhood 13 Association and the Dudgeon-Monroe Neighborhood 14 Association that opposed Edgewood's repeal of its 15 master plan? 16 A No. 17 Q Okay. 18 (Exhibit No. 77 marked for 19 identification) 20 MS. ZYLSTRA: 77? 21 COURT REPORTER: Yes. 22 MS. ZYLSTRA: Thank you. 23 Q Mr. Elliott, I'm showing you what's been marked 24 Exhibit 77. I'll give you a second to review that 25 document.</p>

<p style="text-align: right;">Page 209</p> <p>1 Mr. Edgewood -- I'm sorry. Mr. Elliott, have 2 you had a chance to review Exhibit 77? 3 A Yes. 4 Q Okay. And the Greenbush Neighborhood Council in 5 this document is expressing concern about the 6 proposed termination of Edgewood's master plan; 7 correct? 8 MR. INGRISANO: Objection. Form. 9 Foundation. 10 A This appears to be. I have no idea who Jim Lorman 11 is or if he really speaks for the neighborhood 12 association for Greenbush. I've never -- we've 13 never interacted with the Greenbush neighborhood, 14 and I do not recognize any names of theirs, so I 15 don't know if this is accurate. 16 Q Fair enough. But I guess I'll lay out a little of 17 the foundation here. This is an email from Jon 18 Standridge to you and others dated August 14, 19 2019; correct? 20 A Yes. 21 Q And who is Jon Standridge? 22 A A neighbor to Edgewood and a member of the 23 Vilas Neighborhood Association. 24 Q Okay. And he's forwarding an email from a 25 Jim Lorman; correct?</p>	<p style="text-align: right;">Page 211</p> <p>1 Q Fair enough. So it's not an issue of whether or 2 not you got it. It's a question of whether or not 3 you read it. Is that fair? 4 A Yeah. 5 MR. INGRISANO: Objection. Form. 6 Foundation. 7 Q Okay. Mr. Elliott, I'm showing you what's been 8 mark as Exhibit 25 in a prior deposition. I'll 9 represent to you these are city, what we call, 10 Legistar documents for, this is for the Plan 11 Commission meeting on Monday, August 26, 2019. 12 Do you see that at the top left of the document? 13 A Yes. 14 Q Okay. This is the meeting that we've been 15 discussing that you said you attended; correct? 16 A Correct. 17 Q Okay. If you'd turn to page 7. At item number 18 14, do you see where that is, sir? 19 A I do. 20 Q Okay. And this is the item that refers to 21 repealing Edgewood's master plan; correct? 22 A Yes. 23 Q Okay. And in the first paragraph under that item 24 it says, "On a motion by Alder Heck, seconded by 25 Alder Rummel, the Plan Commission recommended</p>
<p style="text-align: right;">Page 210</p> <p>1 A Correct. 2 Q Jim Lorman has an Edgewood.edu email. Do you know 3 who Mr. Lorman is? 4 A I do not. 5 Q Okay. 6 A That would be a college email address, not a 7 high school. 8 Q Okay. You understood in August of 2019, however, 9 that the Greenbush Neighborhood Council had voted 10 to express their concern at the Plan Commission 11 meeting? 12 MR. INGRISANO: Objection. Form. 13 A No. I wouldn't have paid any attention to them. 14 I'm sorry. They just have no bearing on our 15 athletic field. 16 Q Okay. But you do believe you received this email? 17 A I have no recollection of receiving it. 18 Q Do you have any concern at all with respect to the 19 email address that's being used for you in this -- 20 let me rephrase that. That was going to be a bad 21 question. 22 Is the email address for you in this document 23 correct? 24 A It is, but Jon Standridge would send 3,000 emails 25 a year, and I didn't usually read his emails.</p>	<p style="text-align: right;">Page 212</p> <p>1 rereferral of the repeal to September 16 of 2019." 2 Do you see that? 3 A Yes. 4 Q Okay. Based on attending the Plan Commission 5 meeting in August of -- on August 26 of 2019, you 6 understood that the Plan Commission did not vote 7 on the repeal of Edgewood's master plan but 8 instead referred it to a future meeting, that 9 being September 16, 2019; correct? 10 A Correct. 11 Q Okay. And then in looking at this item, on the 12 second paragraph there, it says, "In recommending 13 referral, members of the Plan Commission requested 14 more information on the impacts of repeal, the 15 relationship between repealing the master plan and 16 the proposed changes to the CI zoning district 17 (ID 56981), and the status of the agreements that 18 governed the property before the property was 19 zoned CI." Do you see that, sir? 20 A Yes. 21 Q Do you recall hearing at the Plan Commission 22 meeting in August of 2019 that Plan Commission 23 members wanted more information before deciding 24 whether to vote for repeal of Edgewood's master 25 plan?</p>

Page 213

1 A I don't recall that.
2 Q You don't recall that?
3 A No.
4 Q Okay. Do you recall any of the Plan Commission
5 members asking questions of city staff about the
6 impact of repealing the master plan?
7 A I remember city staff recommending that we had the
8 right to do it.
9 Q Fair enough, sir. Do you remember anything else
10 about the meeting?
11 A That that's -- that they then referred it to a
12 later meeting.
13 Q Okay. So as you sit here today, you don't recall
14 any of the Plan Commission members asking for more
15 information from city planning staff?
16 MR. INGRISANO: Objection. Form.
17 Asked and answered.
18 A I don't recall that.
19 Q Fair enough. Thank you, sir. To the best of your
20 knowledge, sir, had the city ever had an instance
21 in which someone was requesting a repeal of a
22 master plan?
23 A I don't know.
24 Q Okay. With respect to Edgewood's 2014 master
25 plan, that was originally supposed to be in effect

Page 214

1 from November 2015 to November of 2025; correct?
2 A Correct.
3 Q Okay. Looking at this same document, if you turn
4 to page 4. And if you look at item number 10 on
5 that page, do you see that, sir?
6 A I do.
7 Q At the same Plan Commission meeting there was a
8 discussion of amending the CI zoning district
9 ordinance; correct?
10 A Correct.
11 Q And you registered in opposition to that
12 amendment; correct?
13 A I believe so.
14 Q Okay. And looking at the first paragraph under
15 item 10, it says, "On a motion by Cantrell,
16 seconded by Sundquist, the Plan Commission
17 recommended rereferral of the zoning text
18 amendment to September 16, 2019." Did I read that
19 correctly?
20 A I am not finding it. Sorry.
21 Q Sorry. On page 4 under item 10.
22 A Yes.
23 Q The first paragraph it says, "On a motion by
24 Cantrell, seconded by Sundquist, the Plan
25 Commission recommended rereferral of the zoning

Page 215

1 text amendment to September 16, 2019." Correct?
2 A Correct.
3 Q So you understood at this August 26, 2019, Plan
4 Commission meeting that both Edgewood's repeal of
5 its master plan and the changes to the zoning code
6 were on parallel tracks to be next discussed at
7 the September 16, 2019, Plan Commission meeting;
8 correct?
9 A We found that out at the meeting.
10 Q Right. And following that meeting you understood
11 that those two ordinances at least were on
12 parallel tracks to get considered again by the
13 Plan Commission meeting on September -- I'm sorry,
14 to be considered again at the September 16, 2019,
15 Plan Commission meeting?
16 MR. INGRISANO: Objection. Form.
17 Vague as to time.
18 A We didn't understand how they got on the same
19 plane as quickly as they did.
20 Q Okay. But following -- You attended the
21 August 26, 2019, meeting; correct?
22 A Yes.
23 Q You understood at the end of that meeting that
24 both the CI zoning amendment change and the repeal
25 of Edgewood's master plan were both going to be

Page 216

1 considered next at the September 16 Plan
2 Commission meeting; correct?
3 A I was aware of that.
4 Q Okay. Did you know at the time in August and
5 September of 2019 what the result would be if
6 those two items continued on parallel tracks and
7 got voted on at the same time?
8 A My recollection was that they didn't get voted on
9 at the same time. One preceded the other, which
10 changed dramatically our rights or our ability for
11 ours to pass.
12 Q That's your understanding, that because they were
13 not voted at the same time, it changed your
14 rights; correct?
15 A Or because the other ordinance was put in front of
16 ours.
17 Q Did you have an understanding of what --
18 A It's not an ordinance. I said the wrong word
19 there, but I don't know all of the terminology.
20 Sorry.
21 Q No problem. I don't know all the terminology,
22 sir, so you're doing pretty well.
23 Did you understand what the result would be
24 if both were voted on at the same time?
25 A No, I did not.

<p style="text-align: right;">Page 217</p> <p>1 Q Okay. I'm showing you, sir, what's been marked as 2 Exhibit 24 from a prior deposition. I'll 3 represent to you this is a memorandum to the 4 Plan Commission from Assistant City Attorney John 5 Strange dated August 26, 2019. 6 Do you know whether you've seen this document 7 before? 8 A I believe I have. 9 Q Okay. And turning to the last page of the 10 document, Mr. Strange writes on the impact of 11 passing -- he writes a paragraph on the impact of 12 passing both Edgewood's repeal ordinance request 13 and the change to the CI zoning amendment. Do you 14 see that, sir? 15 A Yes. 16 Q And he writes, "If both Legistar items are 17 approved by the Common Council on September 3, the 18 practical impact on the ongoing athletic field 19 issue is that Edgewood would be allowed to play 20 games on its existing field but any improvement or 21 modification to that field will require 22 conditional use approval regardless of whether 23 such improvement or modification requires the 24 construction of a building or an increase in 25 zoning lot area." Do you see that, sir?</p>	<p style="text-align: right;">Page 219</p> <p>1 been no enforcement actions or any statement by 2 the city that Edgewood is prohibited from playing 3 games on its field; correct? 4 A Not that I'm aware of. 5 Q All right. And at least with respect to the 6 ability to play games on your field, Edgewood -- 7 there was no prejudice to Edgewood referring the 8 repeal of the master plan to a later date; correct? 9 MR. INGRISANO: Objection. Form. 10 Vague as to prejudice. Calls for a legal 11 conclusion. Foundation. 12 A I'm not sure on that. 13 Q Was there -- 14 A I don't have the ability to answer that. 15 Q Oh, I'm sorry, sir. 16 A I don't have the ability to answer that. 17 Q Okay. Are you aware of any harm to Edgewood with 18 respect to the ability to play games on its 19 athletic field that resulted from referring the 20 repeal of the master plan to a later date than 21 September 16 of 2019? 22 A Yes. It enabled the other ordinance or rule to 23 come into play so that we couldn't have lights. 24 Q Okay. 25 A And that was the whole premise that we have been</p>
<p style="text-align: right;">Page 218</p> <p>1 A I do. 2 Q Okay. So at least the opinion of the city -- of 3 the assistant city attorney was if both items 4 passed at the same time, Edgewood was going to be 5 allowed to play games on its existing field; 6 correct? 7 MR. INGRISANO: Objection. Form, 8 foundation. 9 A I -- seeing -- I didn't know that. 10 Q Fair enough. But at least to the extent that this 11 memo was provided to the Plan Commission members, 12 that's what they were instructed by Mr. Strange; 13 correct? 14 MR. INGRISANO: Objection. Form. 15 A I don't know what they were told. 16 Q Okay. Well, eventually the repeal of Edgewood's 17 master plan is passed by the Common Council; 18 correct? 19 A Correct. 20 Q And following that, Edgewood has been allowed to 21 play athletic games on its field; correct? 22 A We have played games on our -- we have not stopped 23 playing games on our field. 24 Q Okay. But following the approval of the repeal of 25 the master plan by the Common Council, there has</p>	<p style="text-align: right;">Page 220</p> <p>1 trying to get from day one. 2 Q With respect to use of your athletic field for 3 games, you agree that there was no harm to 4 Edgewood from that time period? 5 MR. INGRISANO: Objection. Form. 6 Argumentative. Foundation. 7 A There was a lot of damage to Edgewood based on the 8 timing of those issues and how they took place. 9 Q Okay. But I'm trying to focus -- I understand 10 that -- your position that it affected Edgewood 11 with respect to lights on its football field. But 12 with respect to your ability to play competitive 13 games, was there any change or harm to Edgewood 14 from it being voted on from September to October 15 of 2019? 16 MR. INGRISANO: Objection. Form. 17 Argumentative. 18 A Without lights, we do not have the ability to meet 19 our schedules. 20 Q I understand that without lights you can't play 21 night games; correct? 22 A I can't meet my schedule of games for the teams 23 that want to play at home. 24 Q Okay. But Edgewood is currently using its field 25 for day games; correct?</p>

<p style="text-align: right;">Page 221</p> <p>1 A It is.</p> <p>2 Q And it was using its field for competitive sports</p> <p>3 and day games in August of 2019 when it moved the</p> <p>4 Planning Commission for repeal of the master plan;</p> <p>5 correct?</p> <p>6 A Say that again, please.</p> <p>7 Q Edgewood was using its field for competitive</p> <p>8 games in August of 2019 when the issue of</p> <p>9 Edgewood's repeal came before the Plan Commission;</p> <p>10 correct?</p> <p>11 A I believe so.</p> <p>12 Q And it was using its field for competitive games</p> <p>13 in September of 2019; correct?</p> <p>14 A Not at the level needed to meet the schedule.</p> <p>15 Q That's not my question, sir.</p> <p>16 You were using your field for competitive</p> <p>17 games in September of 2019; correct?</p> <p>18 A Yes.</p> <p>19 Q And you were using it in October of 2019; correct?</p> <p>20 A Yes.</p> <p>21 Q Was there any change in Edgewood's use of its</p> <p>22 field for competitive games from July of 2019</p> <p>23 through August -- or through October of 2019?</p> <p>24 A We still had to schedule games off site because we</p> <p>25 don't have enough time in the day to be able to</p>	<p style="text-align: right;">Page 223</p> <p>1 A I'm not aware of any conversations with him.</p> <p>2 Q Well, let's change that to are you aware of</p> <p>3 conversations with alders, I'll just refer to them</p> <p>4 all generally, in or around September 15, 2019,</p> <p>5 about Edgewood considering proceeding with a</p> <p>6 master plan amendment rather than repeal?</p> <p>7 A No.</p> <p>8 Q Okay. Are you aware, separate from the date, do</p> <p>9 you recall any time in September a discussion</p> <p>10 with -- a discussion between any representatives</p> <p>11 of Edgewood and any of the city involving the</p> <p>12 possibility of going forward with an amendment to</p> <p>13 the master plan rather than repeal?</p> <p>14 MR. INGRISANO: Objection. Form.</p> <p>15 A I have no recollection of those conversations.</p> <p>16 Q Okay.</p> <p>17 (Exhibit No. 78 marked for</p> <p>18 identification)</p> <p>19 Q Sir, I'm showing you what's been marked as</p> <p>20 Exhibit 78. I'll give you a minute to review</p> <p>21 that.</p> <p>22 A I remember this time period, this event.</p> <p>23 Q Okay. 78 is an email exchange between you, at</p> <p>24 least the top is between you and Katie Boyce from</p> <p>25 September 25, 2019; correct?</p>
<p style="text-align: right;">Page 222</p> <p>1 get our schedules in.</p> <p>2 Q My question was did the use change between that</p> <p>3 period of time?</p> <p>4 MR. INGRISANO: Objection. Form.</p> <p>5 A I don't know. I'd have to check that out with my</p> <p>6 athletic director.</p> <p>7 Q Okay. You're not aware of any change in use</p> <p>8 between July --</p> <p>9 A No.</p> <p>10 Q -- 2019 through October of 2019?</p> <p>11 MR. INGRISANO: Objection. Form.</p> <p>12 Asked and answered.</p> <p>13 A I'm personally not aware.</p> <p>14 Q Okay. Are you aware of any change in use of</p> <p>15 Edgewood's athletic field from August of 2019 to</p> <p>16 present?</p> <p>17 A Again, I would not know that at this point.</p> <p>18 Q Okay. Do you recall, sir, any kind of discussion</p> <p>19 by Edgewood with Alder Henak around September 15</p> <p>20 of 2019 that Edgewood was considering proceeding</p> <p>21 with the master plan amendment rather than go</p> <p>22 through repeal?</p> <p>23 A I know there was conversations with Alder -- or</p> <p>24 who did you --</p> <p>25 Q Henak.</p>	<p style="text-align: right;">Page 224</p> <p>1 A Correct.</p> <p>2 Q And it's attaching a string of emails; correct?</p> <p>3 A Correct.</p> <p>4 Q What do you recall about this, sir?</p> <p>5 MR. INGRISANO: Objection. Form.</p> <p>6 Vague.</p> <p>7 Q What do you recall about discussions that were</p> <p>8 being had with Edgewood about whether it would</p> <p>9 amend its master plan versus repeal it?</p> <p>10 A I remember that there was a feeling that that's</p> <p>11 the direction that the city wanted us to go and</p> <p>12 the mayor wanted us to go.</p> <p>13 Q Okay.</p> <p>14 A But I don't recall what our counsel told us would</p> <p>15 be the best direction.</p> <p>16 Q Okay. So it's your understanding, then, in</p> <p>17 September that the mayor was suggesting to</p> <p>18 Edgewood to amend its master plan rather than</p> <p>19 repeal it?</p> <p>20 A Yes.</p> <p>21 Q Was Edgewood considering doing that in September</p> <p>22 of 2019?</p> <p>23 A Well, I'm not sure on all the dates, but I think</p> <p>24 that is when the mayor was trying to be helpful to</p> <p>25 get this done and then she -- when they withdrew,</p>

<p style="text-align: right;">Page 225</p> <p>1 then it didn't happen.</p> <p>2 Q Okay. Was Edgewood considering amending its</p> <p>3 master plan instead of repealing in September of</p> <p>4 2019?</p> <p>5 MR. INGRISANO: Objection. Form.</p> <p>6 A I don't -- I don't know exactly what strategy we</p> <p>7 were talking about doing. It was we were trying</p> <p>8 to get the lights and we were trying to follow</p> <p>9 what the city told us to do to get the lights, and</p> <p>10 that kept changing. So it's hard for me to make a</p> <p>11 determination of what timeframe and what we were</p> <p>12 doing.</p> <p>13 Q Okay. Are you aware, sir, on the same day as the</p> <p>14 Plan Commission meeting of August 26, 2019, that a</p> <p>15 protest petition was filed with the city?</p> <p>16 A I'm not.</p> <p>17 Q Okay. Did you -- At the time, back in this time</p> <p>18 period of August, September, October of 2019, did</p> <p>19 you have an understanding of the effect that a</p> <p>20 protest petition would have on the ordinance for</p> <p>21 Edgewood's repeal of its master plan?</p> <p>22 A I do not.</p> <p>23 Q Do you recall any discussions regarding a protest</p> <p>24 petition?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 227</p> <p>1 A Correct.</p> <p>2 Q Okay. And in the first paragraph you say, "We</p> <p>3 would like to share an update as to events that</p> <p>4 occurred yesterday, Monday, September 3. Council</p> <p>5 President Shiva Bidar moved to delay Edgewood's</p> <p>6 ordinance to terminate its master plan without</p> <p>7 notice or explanation to the school." Did I read</p> <p>8 that correctly?</p> <p>9 A Yes.</p> <p>10 Q Okay. President Bidar had added her motion to</p> <p>11 rerefer the termination of Edgewood's master plan</p> <p>12 to the city's agenda earlier in the day; correct?</p> <p>13 MR. INGRISANO: Objection.</p> <p>14 Foundation.</p> <p>15 A I don't know.</p> <p>16 Q Do you recall her stating that at the Common</p> <p>17 Council meeting?</p> <p>18 A I don't.</p> <p>19 Q Do you recall her explaining that motions could be</p> <p>20 made on the floor but that her motion she put in</p> <p>21 writing in advance of the meeting to give everyone</p> <p>22 notice?</p> <p>23 MR. INGRISANO: Objection. Form.</p> <p>24 A I don't recall.</p> <p>25 Q You don't recall her saying that?</p>
<p style="text-align: right;">Page 226</p> <p>1 (Mr. Jean-Louis exited the</p> <p>2 proceedings)</p> <p>3 Q Okay. Are you aware that on September 3, 2019,</p> <p>4 the Common Council rereferred that Edgewood repeal</p> <p>5 of its master plan to October 14 of 2019?</p> <p>6 A I don't remember the exact dates, but I know that</p> <p>7 there was some referrals.</p> <p>8 Q Okay. Do you recall that being done by a motion</p> <p>9 of Shiva Bidar?</p> <p>10 A I do not.</p> <p>11 Q Did you attend the September 3, 2019, Common</p> <p>12 Council meeting?</p> <p>13 A To the best of my recollection, I was there.</p> <p>14 Q Okay.</p> <p>15 (Exhibit No. 79 marked for</p> <p>16 identification)</p> <p>17 MR. INGRISANO: 79?</p> <p>18 MS. ZYLSTRA: Yes.</p> <p>19 Q Sir, I'm showing you what's been marked as 79.</p> <p>20 This is an email from September 5, 2019; correct?</p> <p>21 A I recognize this.</p> <p>22 Q Okay. This is an email from you to the EHS</p> <p>23 community?</p> <p>24 A Uh-huh.</p> <p>25 Q Correct?</p>	<p style="text-align: right;">Page 228</p> <p>1 A Huh-uh.</p> <p>2 Q Okay. Well, did you receive notice -- well, let</p> <p>3 me strike that.</p> <p>4 You must have received some notice because</p> <p>5 you attended the Common Council meeting on</p> <p>6 September 3; correct?</p> <p>7 MR. INGRISANO: Objection.</p> <p>8 Foundation and form.</p> <p>9 A I was at the meeting, and I was brought up to</p> <p>10 speed by my counsel as to what they perceived was</p> <p>11 going on at the time.</p> <p>12 Q And your attorneys, in fact, spoke at the</p> <p>13 September 3 Common Council meeting; correct?</p> <p>14 MR. INGRISANO: That's a yes-or-no</p> <p>15 question, if you can remember.</p> <p>16 A I'm not -- I'm not sure if they spoke for us or</p> <p>17 not.</p> <p>18 Q Okay. And with respect to that September 3</p> <p>19 meeting, President Bidar never said anything at</p> <p>20 that meeting about wanting the ordinance change to</p> <p>21 go through before the repeal of Edgewood's master</p> <p>22 plan; true?</p> <p>23 A I don't know if she did or didn't.</p> <p>24 Q Okay. You don't recall hearing that; fair?</p> <p>25 A No. I was talking with people, and I did not hear</p>

Page 229

1 all the conversation.
 2 Q Do you recall hearing three members of the Common
 3 Council who were also on the Plan Commission
 4 speaking in favor of rereferring Edgewood's repeal
 5 ordinance to the October 14 Plan Commission
 6 meeting?
 7 A I don't recall that.
 8 Q Okay. Do you recall, and you may not, sir, but
 9 I'm going to ask in case anything jogs your
 10 memory.
 11 Do you recall an alder, in particular
 12 Alder Heck, saying that there were a number of
 13 issues that the Plan Commission wanted more
 14 information from city planning commission staff
 15 and the city's attorney's office and as such he
 16 was in favor of referring the Edgewood repeal
 17 matter to the October 14 meeting?
 18 MR. INGRISANO: Objection. Form.
 19 A I don't remember Alder --
 20 Q Okay.
 21 A -- Heck, did you say?
 22 Q Alder Heck.
 23 A Yeah, I don't remember.
 24 Q Do you remember any statements by the alders that
 25 the Plan Commission members were leaning against

Page 230

1 voting for repeal in absence of getting certain
 2 information clarified? Do you recall hearing that
 3 at all?
 4 A No.
 5 Q Okay.
 6 MR. INGRISANO: Mr. Videographer,
 7 can I get an update on time on the record?
 8 (Exhibit No. 80 marked for
 9 identification)
 10 MR. HANSEN: Five hours, 48 minutes.
 11 MR. INGRISANO: Thank you.
 12 Q Mr. Elliott, I'm showing you what's been marked as
 13 Exhibit 80. Do you recognize this document?
 14 A Yes.
 15 Q Okay. At least the first page is showing various
 16 emails between you and Steven Krantz; correct?
 17 A Correct.
 18 Q And who is Steven Krantz?
 19 A He is a parent of multiple students. I'm not sure
 20 if he was on our board at the time of this email.
 21 He didn't go off on a regular term.
 22 Q Okay. He was president of Edgewood's board at
 23 some period of time; correct?
 24 A At some period, yes.
 25 Q With respect to -- with respect to the emails that

Page 231

1 occur on September 12, 2019, Steven Krantz writes
 2 to you at 8:51 a.m. saying, "Okay. When are you
 3 reaching out to her?" Do you see that on the
 4 first page?
 5 A I do.
 6 Q And the "her" in this email is Shiva Bidar;
 7 correct?
 8 A I assume so.
 9 Q Okay. And then you indicate to Mr. Krantz, "I did
 10 last night. She is in." Do you see that, sir?
 11 A I do.
 12 Q And then Mr. Krantz responds, "What does she is in
 13 mean? Shiva is in for delaying Tag ordinance?"
 14 Correct?
 15 A That's what it says.
 16 Q All right. You were reaching out to President Shiva
 17 Bidar around this time period of September 12,
 18 2019, to lobby her to delay the change in the
 19 ordinance to the CI zoning district; correct?
 20 A I believe -- yes, I believe that's true.
 21 Q And at the time of this email, you thought you had
 22 convinced her to do that; correct?
 23 A I don't recall a conversation with her.
 24 Q You don't recall any conversation with Shiva
 25 Bidar --

Page 232

1 A I had a conversation with her at a coffee shop,
 2 but I don't remember if this was the one that we
 3 were talking about delaying the ordinance.
 4 Q Okay. What do you recall about your conversation
 5 with President Bidar at the coffee shop?
 6 A I don't know that she agreed with me. So I'm --
 7 I'm trying to recall, and I certainly didn't -- I
 8 don't believe I would have talked to her at the
 9 council meeting.
 10 Q Well, you wrote the words, "I did last night. She
 11 is in." What did you mean?
 12 A This would state that I thought she was in for
 13 delaying the ordinance. But, again, I'm having
 14 trouble recalling the conversation.
 15 Q Okay. During this time period of September of
 16 2019, were you meeting with alders to try to
 17 convince alders to vote in favor of delaying the
 18 changes to the CI zoning district ordinance?
 19 A I was not, but some of the members of our
 20 committee were.
 21 Q Okay.
 22 A Steve being one of them.
 23 Q Okay. And the purpose for meeting with the alders
 24 was to try and convince them which way to vote on
 25 that; correct?

Page 233

1 MR. INGRISANO: Objection. Form.
 2 Vague.
 3 A We were trying to provide information to the
 4 alders to counter -- we were told that we could
 5 have conversations with them with information to
 6 try to counter what Alder Evers, who had unlimited
 7 ability to connect with them. We were trying to
 8 share our facts.
 9 Q Fair enough. As part of the democratic process,
 10 you were trying to speak to Common Council alders
 11 to try and sway them to your position. Is that
 12 fair?
 13 A I wasn't, but members were.
 14 Q Members were. Just like neighbors in your
 15 communities were trying to present information to
 16 the alders to try and sway the alders to their
 17 position as to these items; fair?
 18 A I would assume they were.
 19 Q Okay. And it's not uncommon for alders to change
 20 their views based on hearing from different
 21 constituents. Is that fair?
 22 MR. INGRISANO: Objection. Form,
 23 foundation.
 24 A Yeah, I don't know what makes them tick.
 25 Q Well, you've been a lifelong city resident, have

Page 234

1 you not?
 2 A Yes, and I get more confused every year with
 3 politics.
 4 Q Have you voted in your citywide races?
 5 A I live in Fitchburg. So not in any Madison ones,
 6 but Fitchburg ones I have voted.
 7 Q Okay. And you understand in general the
 8 democratic process and how it works in terms of
 9 having representative government?
 10 MR. INGRISANO: Objection. Form.
 11 A I think I do.
 12 Q Okay. Have you ever had occasion to meet with any
 13 municipal representatives to try and convince them
 14 to take a position that you wanted them to take?
 15 A If I have, it's been during this project.
 16 Q Okay. And the Common Council voted in favor of
 17 referring the repeal of Edgewood's master plan to
 18 the October 14 Plan Commission meeting; correct?
 19 A I believe so.
 20 Q Okay. Do you recall Edgewood requesting the city
 21 refer the repeal of Edgewood's master plan from
 22 the October 14 meeting to the October 28 meeting?
 23 A I don't recall that.
 24 Q Okay. Do you recall -- Separate from the dates,
 25 do you recall Edgewood in October making multiple

Page 235

1 requests to the city to move or to refer the
 2 repeal of Edgewood's master plan to later meetings
 3 with the city?
 4 A The concern that I believe we had was if Tag's
 5 newly created ordinance got in front of ours, then
 6 it would wipe out our ability to get lights by
 7 repealing the master plan as we had been told to
 8 do.
 9 Q My question, sir, was not that. My question was
 10 whether Edgewood made a request to refer --
 11 further refer to later Planning Commission dates
 12 the repeal of its master plan.
 13 A I can't answer if we got bumped or if we requested
 14 that.
 15 MS. ZYLSTRA: If you can mark these
 16 two?
 17 (Exhibit Nos. 81 and 82 marked for
 18 identification)
 19 MS. ZYLSTRA: This one is going to
 20 be 81. And this one is going to be 82.
 21 Q Mr. Elliott, I'm showing you what's been marked as
 22 Exhibit 81. Do you recognize this as an email
 23 exchange between you and Heather Stouder at the
 24 City of Madison?
 25 A Yes.

Page 236

1 Q Okay. And you write on the bottom, on October 10,
 2 that you were requesting that the repeal of
 3 Edgewood's master plan vote be referred from the
 4 October 14 to the next Plan Commission meeting;
 5 correct?
 6 A Correct.
 7 Q And she indicates in response that she's received
 8 your request to refer the plan consideration of
 9 the repeal to the October 28 meeting and that
 10 there will be no discussion of this item on
 11 October 14; correct?
 12 A Correct.
 13 Q Okay. And Exhibit 82, this is an email from
 14 you to Heather Stouder requesting referring the
 15 vote for the repeal of the master plan to the
 16 November 11 Plan Commission meeting; correct?
 17 A Correct.
 18 Q Okay.
 19 (Exhibit No. 83 marked for
 20 identification)
 21 Q Mr. Elliott, I'm showing you what's been marked as
 22 Exhibit 83. This document does not involve you,
 23 sir, so I just don't know whether you've seen it
 24 before and are aware of it.
 25 Looking at Exhibit 83, can you tell me

<p style="text-align: right;">Page 237</p> <p>1 whether you are aware of this document?</p> <p>2 A I believe I received this.</p> <p>3 Q Okay. Mr. Parks -- This is a memo from Mr. Parks</p> <p>4 to the Plan Commission dated October 28, 2019;</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 Q And in the second paragraph he says, "In</p> <p>8 recommending referral of the repeal request on</p> <p>9 August 26, members of the Plan Commission</p> <p>10 requested more information on the impacts of</p> <p>11 repeal, the relationship between repealing the</p> <p>12 master plan and the proposed changes to the</p> <p>13 Campus-Institutional zoning district, and the</p> <p>14 status of the agreements that governed the</p> <p>15 property before the property was zoned CI. This</p> <p>16 memo briefly summarizes staff's perspective on</p> <p>17 those three questions." Did I read that correctly?</p> <p>18 A You did.</p> <p>19 Q Does that at all refresh your recollection of the</p> <p>20 Plan Commission requesting more information at the</p> <p>21 August 26 Plan Commission meeting that you</p> <p>22 attended?</p> <p>23 MR. INGRISANO: Objection. Form,</p> <p>24 foundation.</p> <p>25 A It doesn't.</p>	<p style="text-align: right;">Page 239</p> <p>1 A Correct.</p> <p>2 Q And he's informing you that Edgewood's lighting</p> <p>3 application was rejected by the city; correct?</p> <p>4 A Correct.</p> <p>5 Q And attached to that is the rejection by the city</p> <p>6 to Edgewood's lighting application; correct?</p> <p>7 MR. INGRISANO: Objection. Form.</p> <p>8 Foundation.</p> <p>9 A I believe so.</p> <p>10 Q Okay. And the reject decision says the</p> <p>11 installation of stadium lighting in the open space</p> <p>12 is not allowed per the approved master plan;</p> <p>13 correct?</p> <p>14 A That's what it states.</p> <p>15 Q Okay. And you got a copy of this document from</p> <p>16 Mr. Kneer because it was attached to this email</p> <p>17 from him to you; correct?</p> <p>18 A Correct.</p> <p>19 Q Okay. With respect to Exhibit 84, that was in</p> <p>20 reference to Edgewood's September 30, 2019,</p> <p>21 lighting application; correct?</p> <p>22 MR. INGRISANO: Objection.</p> <p>23 Foundation.</p> <p>24 A I don't know --</p> <p>25 Q Okay.</p>
<p style="text-align: right;">Page 238</p> <p>1 Q Okay. That's fine, sir. It's referring to the</p> <p>2 status of agreements. You're aware that there</p> <p>3 were agreements between Edgewood and the</p> <p>4 neighborhood associations that were part of the</p> <p>5 2014 master plan; correct?</p> <p>6 A That's what this is stating.</p> <p>7 (Interruption - Cell phone)</p> <p>8 Q Well, earlier in the day, sir, we were looking at</p> <p>9 those site one agreements that were referenced in</p> <p>10 the master plan. Do you recall that?</p> <p>11 A Yes.</p> <p>12 Q There were agreements between Edgewood and the</p> <p>13 neighborhood association that were incorporated</p> <p>14 into the master plan; correct?</p> <p>15 A Correct.</p> <p>16 Q Okay. That's all.</p> <p>17 (Exhibit No. 84 marked for</p> <p>18 identification)</p> <p>19 MS. ZYLSTRA: Sorry, sir. I meant</p> <p>20 to hand that to your counsel.</p> <p>21 Q I'm showing you what's been marked as Exhibit 84.</p> <p>22 Do you recognize this document, sir?</p> <p>23 A Yes.</p> <p>24 Q Okay. The first page is an email from a gentleman</p> <p>25 named John Kneer at Rettler to you; correct?</p>	<p style="text-align: right;">Page 240</p> <p>1 A -- which one it was.</p> <p>2 Q That's fine, sir. You're aware of Edgewood having</p> <p>3 two lighting applications; correct?</p> <p>4 A Correct.</p> <p>5 Q And we looked at one earlier in February of 2019;</p> <p>6 correct?</p> <p>7 MR. INGRISANO: Objection. Form.</p> <p>8 A I'm not -- I'm not sure what we all looked at.</p> <p>9 Q Fair enough. I can certainly refresh your</p> <p>10 recollection here. It's Exhibit 6.</p> <p>11 MR. INGRISANO: Yeah, so that's why</p> <p>12 I objected, because that's not the lighting</p> <p>13 application.</p> <p>14 MS. ZYLSTRA: Oh, I apologize.</p> <p>15 Q Well, let me ask you this, sir. I'm going to show</p> <p>16 you Exhibit 6. The first paragraph of that letter</p> <p>17 is referencing a lighting application of Edgewood</p> <p>18 dated February 22; correct?</p> <p>19 A Yes, this letter is referencing that.</p> <p>20 Q Okay. And separate from the February 2019</p> <p>21 lighting application, are you aware that Edgewood</p> <p>22 submitted a second lighting application?</p> <p>23 A Yes. Yes.</p> <p>24 Q You're just uncertain of the date. Is that fair?</p> <p>25 A Right.</p>

Page 241

1 Q Okay. Thank you, sir.
 2 (Exhibit No. 85 marked for
 3 identification)
 4 Q Sir, I'm showing you what's been marked as
 5 Exhibit 85. Do you recognize this letter?
 6 A I am.
 7 Q Okay. Is the information in this letter -- well,
 8 first of all let me strike that and say: On the
 9 second page of the letter, that's your signature;
 10 correct?
 11 A Yes.
 12 Q I presume you would have read this letter before
 13 you signed it; is that fair?
 14 A I'm not sure.
 15 Q Did you often sign things that you did not read,
 16 sir?
 17 A During this process, there were things that others
 18 signed for me.
 19 Q Okay. Is this one of those things that someone
 20 else signed for you?
 21 A I believe this letter I signed.
 22 Q Okay. Do you know if everything in this letter is
 23 true and correct?
 24 MR. INGRISANO: Go ahead and read it.
 25 A Yes. I didn't read this letter but I signed it

Page 242

1 and I believe what was captured by Sister Mary
 2 Ellen. I can't tell you if every number of
 3 students and employees are accurate. I didn't
 4 have that number. But I've got to believe that if
 5 she produced it, it's accurate.
 6 Q Fair enough. On page 2 there is a portion of the
 7 letter that's been marked and it says, "The master
 8 plan which governs the three parcels of land and
 9 our respective institutions is no longer effective
 10 or workable. The goals and objectives of the
 11 three separate and distinct schools can sometimes
 12 be in conflict, which has proven to be a hindrance
 13 when changes are desired or needed." Did I read
 14 that correctly?
 15 A Correct.
 16 Q Okay. What are the conflicting goals and
 17 objectives or hindrances to which you're referring
 18 in this letter?
 19 A So I'm assuming that there are times when
 20 something that the college does may affect the
 21 campus school negatively or something that we do.
 22 It was difficult for us to -- with three different
 23 boards and three different entities to always
 24 support each other, where we were having to speak
 25 as one voice and it was becoming increasingly more

Page 243

1 difficult.
 2 (Mr. Jean-Louis reentered the
 3 proceedings)
 4 Q Okay.
 5 A And that's an overview of what it meant.
 6 Q Okay.
 7 A From my interpretation.
 8 Q Did Edgewood College or the campus school express
 9 any concerns with respect to Edgewood High
 10 School's pursuit of lights on its athletic field?
 11 MR. INGRISANO: Objection. Form.
 12 Vague as to time.
 13 A I don't know if they --
 14 Q At any time.
 15 A No.
 16 Q Okay. Not that you recall?
 17 A Not that I recall.
 18 Q Okay. With respect to this November 5, 2019,
 19 letter, looking toward the last paragraph, this is
 20 a request to the Common Council and the Plan
 21 Commission to support repeal of the master plan;
 22 correct?
 23 A Correct.
 24 Q Okay. You indicate in this letter -- or strike
 25 that.

Page 244

1 The master plan was submitted to the city as
 2 one master plan for the college, the high school,
 3 and the grade school; correct?
 4 A It was -- By nature, it was one plan, but we all
 5 had our -- I wasn't privy to everything that went
 6 into the college and what they were representing,
 7 and I was more for the high school and the college
 8 was for the college and the campus school was for
 9 the campus school.
 10 Q Do you recall at all making statements to, whether
 11 it be the mayor or others, that the master plan
 12 was developed when Edgewood was one entity but now
 13 you were three entities and three properties?
 14 MR. INGRISANO: Objection. Form.
 15 A I don't -- I don't recall if I had that
 16 conversation with the mayor.
 17 Q Okay. Did you see a difference in how Edgewood
 18 was operating in terms of when the master plan
 19 went into effect versus at the time?
 20 MR. INGRISANO: Objection. Form.
 21 Vague.
 22 A We were one entity at the beginning, Edgewood, Inc.,
 23 and then when we reestablished ourselves as three
 24 entities, there was a difference in how we
 25 operated. We each ran our own school, so to

Page 245

1 speak, instead of being one big entity on the
 2 campus.
 3 Q So when you refer to Edgewood, Inc., what was --
 4 was Edgewood, Inc., a corporate entity that --
 5 under which the college, the high school, and the
 6 campus school was under?
 7 A I believe that was the name, but we were -- the
 8 three of us were together.
 9 Q Okay. And do you know when Edgewood, Inc., was,
 10 for lack of a better word, in effect?
 11 A I don't remember the exact dates. That was before
 12 my time.
 13 Q Do you remember when they split into three
 14 separate entities and were not under the umbrella
 15 of Edgewood, Inc.?
 16 A Again, that was before I was president. I don't
 17 know the exact dates.
 18 Q Okay. Does Edgewood, Inc., still exist to your
 19 knowledge?
 20 A Honestly, I don't know.
 21 Q Okay. The repeal of Edgewood's master plan came
 22 before the city's Plan Commission on December 9,
 23 2019. Does that sound correct to you?
 24 A Yes.
 25 Q Do you recall what the vote was at the December 9

Page 246

1 Plan Commission meeting?
 2 A I do not.
 3 Q Okay. I'll represent to you that the Plan
 4 Commission voted to place your Edgewood repeal on
 5 file. Do you recall that at all?
 6 A No.
 7 Q Okay. Did the repeal of the master plan come
 8 before the Common Council on January 7, 2020?
 9 A I don't remember the exact date.
 10 Q Do you recall it coming before the Common
 11 Council --
 12 A Yes.
 13 Q -- for a vote in January of 2020?
 14 MR. INGRISANO: Let her finish her
 15 question. I know it's getting late in the
 16 day.
 17 A I'm sorry. Can you repeat that because I
 18 interrupted.
 19 Q That's not a problem. I interrupted you too, so I
 20 apologize.
 21 Do you recall the repeal of Edgewood's master
 22 plan coming before the Common Council in January
 23 of 2020?
 24 A I believe that's when it came, the date, the date
 25 it came up.

Page 247

1 Q Thank you, sir. I'm sorry. I didn't mean to jump
 2 on you.
 3 Did the Common Council vote and approve
 4 Edgewood's repeal of its master plan?
 5 A I believe it did.
 6 Q Do you recall what the vote was?
 7 A No.
 8 Q You were pleased that the Common Council voted
 9 in favor of repealing Edgewood's master plan;
 10 correct?
 11 MR. INGRISANO: Objection. Form.
 12 A Yes.
 13 Q Okay.
 14 A At that point we thought we were doing what we had
 15 to do to be able to get our lights.
 16 MS. ZYLSTRA: I'll move to strike
 17 the remaining as nonresponsive. What's the
 18 form objection to that?
 19 MR. INGRISANO: "Pleased" is vague
 20 and argumentative.
 21 MS. ZYLSTRA: All right.
 22 (Exhibit No. 86 marked for
 23 identification)
 24 Q Mr. Elliott, I'm showing you Exhibit 86. Do you
 25 recognize this as an email that you wrote on

Page 248

1 January 8, 2020, to the Friends of Edgewood?
 2 A Yes.
 3 Q And directing your attention to the first
 4 paragraph, "We are pleased with last night's vote
 5 by the Madison Common Council in favor of
 6 repealing Edgewood's master plan." Did I read
 7 that correctly?
 8 A Yes.
 9 Q Does that sentence accurately reflect your
 10 thoughts and feelings at the time you wrote this
 11 email?
 12 A Yes.
 13 Q Thank you.
 14 MS. ZYLSTRA: 86?
 15 COURT REPORTER: Yes.
 16 MR. INGRISANO: Where are we on
 17 time, Mr. Videographer?
 18 VIDEOGRAPHER: 41 minutes left.
 19 Q A number of Edgewood's neighbors showed up and
 20 argued against allowing Edgewood to repeal its
 21 master plan; correct?
 22 A Correct.
 23 Q But the Common Council still voted in favor of
 24 Edgewood's repeal of its master plan; correct?
 25 A Correct.

<p style="text-align: right;">Page 249</p> <p>1 Q Okay. 2 (Exhibit No. 87 marked for 3 identification) 4 Q Sir, I'm showing you what's been marked as 5 Exhibit 87. And directing your attention to the 6 first page, this is a City of Madison Legistar 7 record, and under the title it says, "2219 Monroe 8 Street 13 ald district consideration of a 9 conditional use and a Campus-Institutional (CI) 10 district without a campus master plan for the 11 establishment, improvement, or modification of a 12 secondary use occurring outside of an enclosed 13 building to allow installation of lights for the 14 stadium at Edgewood High School, Goodman Athletic 15 Complex." Did I read that correctly? 16 A Yes. 17 Q Okay. And after the first few pages of the 18 Legistar materials, do you recognize -- Well, 19 strike that. 20 Let's just turn to the page that's marked 21 City 8074. Are you there, sir? 22 A Yes. Yes. 23 Q Under project information, the title says Goodman 24 Athletic Complex conditional use for outdoor field 25 lighting; correct?</p>	<p style="text-align: right;">Page 251</p> <p>1 Q And it says, "The Plan Commission could not find 2 standard #3 met, finding that the lights would 3 have a substantial negative impact on the uses, 4 values, and enjoyment of surrounding properties, 5 and that no evidence was submitted by the 6 applicant that there would not be negative impacts 7 on the lighted use of the field, and no mitigation 8 measures proposed to limit those impacts (noise 9 barriers, limits on events, et cetera)." Did I 10 read that correctly? 11 A Yes. 12 Q And did you have any -- did you have an 13 understanding of what it meant to be placed on 14 file without prejudice? 15 A No. 16 Q Okay. Did you understand that you could come back 17 to the Plan Commission and seek approval of this 18 conditional use permit -- 19 MR. INGRISANO: Objection. 20 Q Sorry. I had not finished my question. Let me 21 rephrase that question. 22 The second paragraph of these notes, it says, 23 "Members indicated they would be open to 24 considering the request again. (When it addresses 25 the noise impacts) was presented by the applicant,</p>
<p style="text-align: right;">Page 250</p> <p>1 A Correct. 2 Q And turning the page, this was a conditional use 3 application for outdoor field lighting for your 4 athletic field that you submitted to the city; 5 correct? 6 A Correct. 7 Q And this was signed by you on March 11, 2020; 8 correct? 9 A Correct. 10 Q And turning to the bottom page would be 8077, 11 Edgewood was proposing the construction and 12 installation of either four 80-foot light poles or 13 four 68-foot light poles; correct? 14 A Correct. 15 Q Okay. And turning back to the second page of the 16 exhibit, that's City 8071, this reflects that your 17 conditional use permit application was heard by 18 the Plan Commission on May 11, 2020. Does that 19 comport with your recollection? 20 A Yes. 21 Q Okay. And it indicates here that the Plan 22 Commission found the standards were not met and 23 placed the conditional use on file without 24 prejudice. Did I read that correctly? 25 A Yes.</p>	<p style="text-align: right;">Page 252</p> <p>1 including improved engagement with the 2 neighborhoods and a limit to the number of games 3 with lights." Do you see that, sir? 4 A I do. 5 Q Did you understand that to be the decision of the 6 Plan Commission? 7 MR. INGRISANO: Objection. Form. 8 A I didn't understand what -- what the next options 9 were. 10 Q Okay. Did you hear Plan Commission members 11 indicate that they would be open to reconsidering 12 the request if these things were done? 13 A No. 14 Q Did you attend that meeting? 15 A I did. 16 Q Okay. Now, at the time of the Plan Commission 17 meeting, the number of people in opposition to the 18 conditional use permit versus the number of people 19 in favor was ten to one against Edgewood; correct? 20 MR. INGRISANO: Objection. Form. 21 Foundation. 22 A I don't know that number. 23 Q Okay. 24 (Exhibit No. 88 marked for 25 identification)</p>

<p style="text-align: right;">Page 253</p> <p>1 Q Mr. Elliott, I'm showing you what's been marked as 2 Exhibit 88. Do you recognize this as an email 3 dated May 4, 2020, from you? 4 A Yes. 5 Q And directing your attention to the second 6 paragraph, you write, "Right now we are behind by 7 about a ten to one margin." Do you see that, sir? 8 A Uh-huh. 9 COURT REPORTER: Is that a yes? 10 Q Is that a yes, sir? 11 A Yes. 12 Q So at least at this time the supporters for the 13 conditional use permit versus people who were in 14 opposition, it was running ten to one against 15 Edgewood at this time; correct? 16 A At this time, yes. 17 Q Okay. 18 A And then the Edgewood parent and student machine 19 kicked in, and I believe it changed to where there 20 was more support. 21 Q What's your basis for saying, sir, ever that the 22 amount of supporters in favor of this was ever 23 more than the opponents? 24 A It happened twice. Once the very first time and I 25 think the city had asked us to turn off the</p>	<p style="text-align: right;">Page 255</p> <p>1 Edgewood's request for approval of the conditional 2 use to allow the installation of lights for the 3 stadium did not meet the standards for approval 4 and placed the request on file without prejudice; 5 correct? 6 A Correct. 7 Q Okay. That's a letter you received; correct? 8 A To the best of my recollection, I did. 9 Q Okay. And Edgewood appealed that decision; 10 correct? 11 A Correct. 12 (Exhibit No. 90 marked for 13 identification) 14 Q I'm showing you, sir, what's been marked as 15 Exhibit 90. Is this the letter signed by you 16 appealing the Plan Commission's decision as to 17 Edgewood's conditional use permit? 18 A Yes. 19 Q Okay. And with regard to this appeal, there were 20 several referrals of this matter over several 21 months in 2020, especially due to COVID; correct? 22 MR. INGRISANO: Objection. Form. 23 A I know COVID affected things. I don't know how 24 many meetings it affected. 25 Q Okay. Well, are you aware that the Common Council</p>
<p style="text-align: right;">Page 254</p> <p>1 Edgewood machine because we had been far behind 2 and then had a lot of people in support write in, 3 and that was why I -- I asked again for the help 4 of our community, because I knew this was 5 important to the community and that they would 6 come through, and I know that the gap was closed 7 or that we were -- I had been given information 8 that we had closed the gap and possibly had more 9 supporters there. 10 Q Who? 11 A I was given that by one of our people we were 12 working with, and I'm not sure if it was Brian or 13 if it was Nathan. 14 Q That information didn't come from the city to you; 15 correct? It came through someone else? 16 A Correct. 17 Q Okay. 18 (Exhibit No. 89 marked for 19 identification) 20 Q Sir, I'm showing you what's been marked as 21 Exhibit 89. Do you recognize this as a letter 22 from the city to you dated May 13, 2020? 23 A Yes. 24 Q Okay. And this is a letter from Timothy Parks 25 indicating to you that the Plan Commission found</p>	<p style="text-align: right;">Page 256</p> <p>1 took up and voted on whether -- on Edgewood's 2 conditional use permit on January 19 of 2021? 3 A I'm not aware of that. 4 Q Okay. Do you recall the Common Council voting on 5 the appeal of the Plan Commission decision? 6 A I don't recall their vote. 7 Q Regardless of what the vote was, do you recall the 8 Common Council having a meeting on the issue? 9 A Yes. 10 Q Okay. Do you believe it's possible that the 11 Plan Commission members and the Common Council 12 alders were not against Edgewood but simply 13 believed the neighbors, that the addition of 14 lights would have a substantial negative impact 15 on the uses, values, and enjoyment of their 16 surrounding properties? 17 MR. INGRISANO: Objection. Form. 18 It calls for speculation. 19 A I have no idea. I can't answer that. 20 Q Okay. There were at least some Edgewood alumni 21 who did not support Edgewood's request for lights; 22 correct? 23 A I'm not aware of those. 24 (Exhibit No. 91 marked for 25 identification)</p>

Page 257

1 Q Mr. Elliott, this email doesn't involve you, but
 2 I'm going to show it to you to see if you're aware
 3 of it.
 4 I'm showing you Exhibit 91. This is an email
 5 from a P. Anthony Brinkman to your athletic
 6 director, Mr. Zwettler, dated January 15 of 2021.
 7 Correct?
 8 A Yes.
 9 Q At least that's what it appears to be?
 10 A Yes.
 11 Q Mr. Brinkman says, "As an alum I do not support
 12 this and I have registered as opposed." Are you
 13 aware of Mr. Brinkman opposing Edgewood's request
 14 for lights?
 15 MR. INGRISANO: Objection.
 16 Foundation of the document, but go ahead.
 17 A I have no recollection of this.
 18 Q Okay. Do you have any knowledge as to why
 19 Mr. Brinkman might have sent an email indicating
 20 he opposed Edgewood's request?
 21 MR. INGRISANO: Objection.
 22 A Probably for the same --
 23 MR. INGRISANO: Objection. Form
 24 and foundation.
 25 A Sorry. Probably for the same reason that some of

Page 258

1 the neighbors wrote letters in support of our
 2 lights. I mean, people had varying opinions on
 3 this.
 4 Q And that's fair. Both -- People on both sides of
 5 the aisle, whether they were the neighborhood or
 6 whether they were Edgewood alum, some favored
 7 Edgewood's conditional use process -- permit for
 8 lights and some were opposed; correct?
 9 MR. INGRISANO: Objection. Form.
 10 A I don't know if that's true or not.
 11 (Exhibit No. 92 marked for
 12 identification)
 13 Q I'm showing you Exhibit 92. This is an email that
 14 you received from Jen Trost February 25 of 2019;
 15 correct?
 16 A What was the date you said?
 17 Q February 25 of 2019. Correct?
 18 A I'm sorry. I thought it said the 22nd.
 19 Q February 25, 2019; correct?
 20 A Oh, sorry. Yes. I was looking at the lower
 21 email.
 22 Q And the email below from Susan Elsa Connors says,
 23 "Forget about the additions think of your
 24 neighbors these are not improvements." Did I read
 25 that correctly?

Page 259

1 A You did.
 2 Q Do you know who Ms. Connors is?
 3 A I have no idea.
 4 Q Okay. The email that she's responding to is an
 5 email to Dear Edgewood Family; correct?
 6 A I don't know if that's what she's responding to.
 7 Q Well, below on the bottom page it says
 8 February 22, 2019, Dear Edgewood Family; correct?
 9 MR. INGRISANO: Objection.
 10 Foundation. Go ahead.
 11 A She could be objecting to something else and just
 12 sent that.
 13 Q Well, the subject line in the email below is from
 14 the Edgewood High School Board of Trustees and
 15 it's to Susan Elsa Connors and it says, Subject,
 16 Current status of Goodman Athletic Complex
 17 improvements. Correct?
 18 A That's what it says.
 19 Q And she was not in favor of Edgewood's
 20 improvements to its athletic field based on her
 21 email; correct?
 22 MR. INGRISANO: Objection.
 23 Foundation and form.
 24 A I'm just not sure if this is what triggered her to
 25 send the email.

Page 260

1 Q All right. Did you ever --
 2 A This statement.
 3 Q Sorry. Why was Jen Trost forwarding this to you,
 4 if you know?
 5 A Because it came to Edgewood. This person didn't
 6 obviously know me or didn't -- I have no idea why
 7 she would have gotten this from this person.
 8 Q What was your understanding of -- Strike that.
 9 Did you do anything in response to this
 10 email, Mr. Elliott?
 11 A Not that I remember.
 12 Q Okay.
 13 A I doubt it.
 14 Q You agree that there were at least some Edgewood
 15 alum that were opposed to Edgewood having lights
 16 on the field?
 17 MR. INGRISANO: Objection. Form.
 18 Asked and answered.
 19 A I'm sure there were some Edgewood people against
 20 it, as there were neighbors for it.
 21 Q Okay.
 22 (Exhibit No. 93 marked for
 23 identification)
 24 Q Mr. Elliott, I'm showing you Exhibit 93. Take a
 25 minute to look at that document.

Page 261

1 A I'm sorry. Did you have a question on this? This
 2 is --
 3 Q Have you read it?
 4 A Yes.
 5 Q Okay. This is an email dated September 29, 2021,
 6 from you; correct?
 7 A Correct.
 8 Q And you're notifying city representatives that
 9 Edgewood was going to be filing a conditional use
 10 application for a two-story Commons Addition;
 11 correct?
 12 A Correct.
 13 Q And Edgewood did file that conditional use
 14 application; correct?
 15 A Correct.
 16 Q And do you know whether that conditional use
 17 permit was granted by the Plan Commission and the
 18 Common Council?
 19 A It was.
 20 Q Do you know whether the neighbors opposed it?
 21 A I don't know that.
 22 Q Okay. Do you know whether Alder Tag Evers
 23 supported this conditional use permit?
 24 A I don't know how he -- if he supported it or not.
 25 Q Okay. You don't recall how he voted; fair?

Page 262

1 A Fair.
 2 Q Okay. Mr. Elliott, how did the city's denial of
 3 a permit to allow athletic field lighting
 4 substantially burden the free exercise of your
 5 religion?
 6 A Our -- The way we go after students is through
 7 showing them our community, and community is a big
 8 thing for us. We don't have kids that live in the
 9 neighborhood and just come to our school. We have
 10 to earn or recruit every student that we get. And
 11 how we do that is showing what a community we are,
 12 and one of the biggest opportunities for bringing
 13 people in for communities, such as the campus
 14 schools, the parochial schools, the middle schools
 15 in the city, are our plays, but, more importantly,
 16 the biggest numbers are always our athletic
 17 events. And that is something that we value and
 18 use a lot.
 19 We also form partnerships with many of these
 20 groups, whether they're nonprofits, whether
 21 they're groups that are asking -- needing support
 22 for fundraisers, whether they are churches and
 23 schools, forming partnerships so that they can
 24 get to know Edgewood better and together we can
 25 evangelize the Catholic religion and the Dominican

Page 263

1 values of the Sinsinawa Sisters.
 2 We also have had to do a lot of shuffling
 3 around for our schedules. We have asked a lot of
 4 our -- of the other schools. When you play
 5 sports, you usually have a JV game. The bus comes
 6 to one place. There is a JV game, and then the
 7 varsity follows.
 8 When you play Edgewood, that can't take place
 9 because there is not enough time, so unless
 10 they -- if the kids get out of school early, and
 11 the other schools are not willing to take kids out
 12 of school early for sporting events.
 13 We also have to spend a lot of extra time
 14 looking for places to play. When we find a place
 15 to play, every game is an away game, and that has
 16 financial costs. We've had donors who were going
 17 to give us money as gifts to pay for things like
 18 the lights or other things. When we didn't get
 19 the lights, they withdrew their gifts. So we've
 20 had financial hurt.
 21 We've had enrollment hurt because it really
 22 takes away from our recruiting -- the recruiting
 23 styles that work. We've had partnerships that
 24 have broken. Girls on the Run at one point ran at
 25 our facility. Susan B. Komen wanted to do their

Page 264

1 walk. We couldn't help them because they walk
 2 into the night.
 3 And so it's been a burden in a lot of
 4 different ways that we have tried to continue to
 5 grow our enrollment, tried to continue to grow the
 6 student satisfaction, but not being able to hold
 7 classes, not being able to hold special events,
 8 fundraisers, other things and gather as a
 9 community, it's our one spot. We're really, from
 10 an outdoor standpoint, we're landlocked, and that
 11 field is something that we cherish and want to
 12 show off as much as possible.
 13 Q Anything -- You gave a very lengthy answer, and I
 14 appreciate that.
 15 A Did you get that?
 16 Q Yes, I did. Anything else that you would say in
 17 terms of substantially burdening your free
 18 exercise of religion?
 19 A Partnership, community are part of our mission,
 20 and probably the two biggest that we use to
 21 recruit and use to grow our community, and that's
 22 been a challenge that we have not -- that we've
 23 suffered from because we haven't been able to get
 24 the use of that field at any time possible.
 25 Q Prior to your request for lights, you were

Page 265

1 exercising your religion in all the ways that you
 2 could at the time; fair?
 3 A Not all the ways that we could, but we were -- I
 4 mean, we feel we've been limited in what our uses
 5 could be and should be.
 6 Q With respect to your sports programs, though,
 7 you've been able to host your athletic contests at
 8 other fields; correct?
 9 A For the most part, but not without a lot of
 10 additional coordination. Being able to play on
 11 your home field, I mean, everybody -- most people
 12 are aware of Friday Night Lights and how big
 13 that's become for small towns and for schools to
 14 rally around their teams. You know, we don't have
 15 that same opportunity at our school on our field,
 16 and it, I believe, affects our community building.
 17 Q And with respect to evangelizing the Catholic
 18 religion, you can evangelize the Catholic religion
 19 to those who attend the Edgewood games at other
 20 locations other than Edgewood; fair?
 21 MR. INGRISANO: Objection. Form.
 22 Argumentative.
 23 A I believe that it's more than one night and one
 24 event. The fields are used to recruit kids to
 25 come here so that they can be part of the

Page 266

1 educational process for Edgewood for four years,
 2 not that you can touch one person for one night
 3 because they came to the game.
 4 If we -- When kids visit our campus and see
 5 the camaraderie that we have, they tend to want --
 6 get excited and want to come to school there.
 7 Q And that camaraderie exists for day games;
 8 correct?
 9 A No. We don't have the same crowds for a day game
 10 that we would for a night game, and many parents
 11 can't attend the games. I mean, it's disruptive
 12 for them that they work and they are unable to
 13 come to the game and see their kids or grandkids
 14 play. So it's not the same having an afternoon
 15 game.
 16 And, again, that hinders the other -- the
 17 schools don't want to come and play us in the
 18 afternoon or they don't feel it's fair that they
 19 have to take two buses or go to two different
 20 locations. And they also have issues with how
 21 things break down with their -- they might have a
 22 child at one site and another -- playing JV and
 23 another one at the varsity site playing varsity
 24 and now who do we go see, which one do we have
 25 to -- can we watch.

Page 267

1 And so those are things that parents take
 2 into consideration when they're picking a school,
 3 what's the sports program like, how is the
 4 community, and we feel that we're hindered in that
 5 because of how -- not having the lights.
 6 Q Okay. Have you ever had a parent tell you that
 7 they would not send their kid to Edgewood because
 8 Edgewood did not have lights on its athletic
 9 field?
 10 A I have not had a parent tell me that. However,
 11 I've been told that parents have said that by some
 12 of our staff.
 13 Q But you personally are not aware of that, are you,
 14 sir?
 15 A I'm aware of people -- of students who didn't come
 16 that I was told that the reason they gave was
 17 that, but I did not have the conversation with
 18 them where that was told.
 19 Q Okay. With respect to the camaraderie that you
 20 mentioned, I think I heard you say, sir, that you
 21 don't think the camaraderie for day games is the
 22 same for your athletic teams as the camaraderie
 23 for night games. Is that your testimony, sir?
 24 A I don't think that -- repeat that, please.
 25 Q I thought I understood your testimony that the

Page 268

1 camaraderie for day games of your athletic teams
 2 is not the same as the camaraderie for your
 3 athletic teams for night games. Is that what
 4 you're saying, sir?
 5 A Yes. Both players and students that are watching
 6 the game would say an evening, there is much more
 7 energy, both for the team and the community, for a
 8 night game than there is for a day game.
 9 Q And to the extent your students are traveling to
 10 Edgewood for a night game at Edgewood, they would
 11 travel to Edgewood for that; correct?
 12 A Not necessarily. They would -- we have food
 13 service that runs in the afternoon. We also have
 14 vending machines and we have a lot of kids that if
 15 there is a game at night, that they would stick
 16 around the school so they didn't have to drive
 17 home and back.
 18 Q Okay. But then after the game they would have to
 19 travel back to their home; correct?
 20 A Certainly.
 21 Q So there would need to be some travel arrangements
 22 for your students in terms of attending a night
 23 game for Edgewood; correct?
 24 A Parents or the students would drive themselves
 25 home.

Page 269

1 Q Okay. And have you seen students attend night
 2 games for Edgewood at other facilities?
 3 A Yes, I've seen students at the games. The
 4 attendance just isn't as robust.
 5 MR. INGRISANO: Time, please.
 6 Q So the students, with respect to the ones that do
 7 attend the night games, do get to experience the
 8 camaraderie that you are speaking of; correct?
 9 A I'm sorry. Can you repeat that one?
 10 Q The students that do attend the night games do get
 11 to experience the camaraderie that you referred to
 12 in response to your answer; correct?
 13 A Our Edgewood students. Just not the grade school
 14 or campus school students that we're trying to
 15 recruit don't have that same opportunity. They
 16 would have to leave their school to come to the
 17 afternoon game.
 18 Q Are you aware of -- well, let me take that back.
 19 With respect to night games, any
 20 prehigh schoolers that you are trying to recruit
 21 would need to travel whether the game was at
 22 Edgewood or whether the game was elsewhere,
 23 wouldn't they?
 24 A Well, if we start our game at 4:30, then they're
 25 not at -- they may still have requirements at

Page 270

1 their school and they can't come to our game at
 2 that time of the day, where at night the middle
 3 schools in the city typically don't have
 4 activities going on.
 5 Q Okay. But that would be true whether the night
 6 game was held at Edgewood or held elsewhere;
 7 correct?
 8 A Depending on where they live, there may be some
 9 difference. But it would -- there would be some
 10 students if we had it at either place.
 11 MS. ZYLSTRA: Can we take a short
 12 break? I might be close to done. Go ahead.
 13 MR. HANSEN: Going off the record
 14 at 5:36.
 15 (Recess)
 16 (Exhibit No. 94 marked for
 17 identification)
 18 MR. HANSEN: We're back on the
 19 record at 5:42.
 20 Q Mr. Elliott, one of the things you had mentioned
 21 was partnerships with nonprofits. Do you recall
 22 that?
 23 A I do.
 24 Q Edgewood has continued to have partnerships with
 25 nonprofits with regard to use of other facilities

Page 271

1 it has; correct?
 2 A What do you mean by other -- like other spaces in
 3 the school?
 4 Q Correct.
 5 A Some.
 6 Q And you've had partnerships with nonprofits
 7 regarding daytime use of your field; correct?
 8 A We have had limited amounts. It's typically a
 9 Saturday is all we can offer or possibly a Sunday.
 10 Q Okay. But, for example, you've had like
 11 Madison 56ers use your field; correct?
 12 A Yes.
 13 Q And those have occurred even without the lights;
 14 correct?
 15 A Yes. There are much more asks than we can
 16 accommodate, because if we had the ability to
 17 practice with the lights, we could take on that
 18 many more groups who don't have fields and don't
 19 have places to go so that our teams could also be
 20 taken care of.
 21 Q Okay. Going back in time, and I'm not sure if you
 22 answered this question earlier and if you did I
 23 apologize.
 24 The Dudgeon-Monroe Neighborhood Association
 25 and the Vilas Neighborhood Association, they

Page 272

1 supported a number of projects over the years that
 2 Edgewood wanted for purposes of changing its
 3 buildings and its space at Edgewood High School;
 4 correct?
 5 MR. INGRISANO: Objection. Form.
 6 Vague.
 7 A I am not sure outside the ones that -- of the
 8 high school.
 9 Q Okay. Well, for example, you mentioned the fine
 10 arts center; correct?
 11 A Correct.
 12 Q The neighborhood associations supported that;
 13 correct?
 14 A Yes, they did.
 15 Q Okay. The neighborhood associations supported the
 16 parking expansion, correct, for the high school?
 17 A I would say they requested that, not supported.
 18 Q Well, whether they requested it or not, they
 19 supported it too; correct? They didn't --
 20 MR. INGRISANO: Objection. Form.
 21 Argumentative, and asked and answered.
 22 Q You agree they supported that?
 23 A I would -- That was something that was required of
 24 us for the neighbors because of frustrations that
 25 they had with the parking that wasn't our fault.

Page 273

1 Q Did the neighborhood association show up and
 2 oppose your request for the parking lot expansion?
 3 A Some did. They didn't like the lighting that was
 4 added to there, so there was some in favor and
 5 some opposed.
 6 Q Okay. You've had a number of communications with
 7 the city employees, the mayor, and city alders;
 8 fair?
 9 MR. INGRISANO: Objection. Form.
 10 Vague.
 11 Q Regarding Edgewood's request for lights?
 12 MR. INGRISANO: Same objection.
 13 A I've had some conversations.
 14 Q Are you aware of any oral statements made by any
 15 city employee, the mayor, or city alder that the
 16 city acted improperly in any way? Did any city
 17 employee, the mayor, or alder say that to you?
 18 MR. INGRISANO: Objection. Form.
 19 A I would tell you that on a walk around our field
 20 at the very beginning of this with the mayor she
 21 had a conversation stating that it was a beautiful
 22 venue and we should be able to have lights, and I
 23 took that as something that would be her working
 24 with us and for us and, you know, I think the
 25 other frustrating part for me is an alder is

Page 274

1 supposed to represent its whole district, and I
 2 understand that an alder will have their
 3 preference one way or another but very seldom do
 4 you have an alder in a situation that they lead
 5 the charge against one of their constituents or
 6 one of their groups, and unfortunately that's what
 7 we've had to work with with our alder, and he will
 8 do whatever it takes to stop us.
 9 Q Mr. Elliott, I asked you about any oral statements
 10 by any city employee, the mayor, or city alder
 11 that indicated to you, any statements where they
 12 indicated to you that the city acted improperly.
 13 You've identified the walk around the field with
 14 the mayor. Are there any others?
 15 A I just believe that some of the correspondence --
 16 I believe we have -- I believe we have talked with
 17 others who have given us reason to believe that
 18 the path we would follow would lead to us getting
 19 our lights, and even to the point of pivoting in
 20 another direction that cost us substantial dollars
 21 in representation, and they -- I took them at face
 22 value that what they were telling us was the
 23 direction to go and how we could get it done.
 24 Q And I'm asking specifically, sir, about oral
 25 communications that you personally would have had

Page 275

1 with any particular individual. I accept all the
 2 written correspondence, but any verbal
 3 communications that you've had with any city
 4 employee, city alder, and the mayor in which they
 5 said to you that the city acted improperly in any
 6 way, are you aware of any such communications?
 7 A That the alder acted improperly or, excuse me,
 8 that the person --
 9 Q I'm trying to get at the idea -- We've covered a
 10 lot of material. So if there are oral
 11 statements -- I don't want to get to trial,
 12 Mr. Elliott, and have you say, I had a
 13 conversation with Tim Parks at the city and Tim
 14 Parks stated X, Y, or Z. The city was wrong to do
 15 this, the city acted improperly, et cetera.
 16 Did you have any such communications with any
 17 city employee, with any alder, or with the mayor?
 18 A Not that stated that.
 19 Q Okay. I'm going to show you one last exhibit,
 20 Exhibit 94. The title of this is Plaintiff
 21 Edgewood High School of The Sacred Heart, Inc.'s
 22 Responses to Defendants' First Set of
 23 Interrogatories. Do you see that?
 24 A I do.
 25 Q And the last page of the document has your

Page 276

1 signature; correct?
 2 A It does.
 3 Q And as to the -- it's dated March 16 of 2022;
 4 correct?
 5 A Correct.
 6 Q Is the information contained in this document true
 7 and correct to the best of your ability?
 8 A It is.
 9 MS. ZYLSTRA: I have no further
 10 questions. Thank you, Mr. Elliott.
 11 MR. INGRISANO: We'll reserve read
 12 and sign.
 13 MR. HANSEN: Going off the record
 14 at 5:50.
 15 (Adjourning at 5:50 p.m.)
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1 STATE OF WISCONSIN)
2 COUNTY OF DANE } ss.
3

4 I, Peggy S. Christensen, Registered Professional
5 Reporter and Notary Public in and for the State of
6 Wisconsin, do hereby certify that the foregoing video
7 deposition of MICHAEL G. ELLIOTT was taken before me
8 on May 10, 2022, and reduced to writing by me, a
9 professional court reporter and disinterested person,
10 approved by all parties in interest and thereafter
11 converted to typewriting using computer-aided
12 transcription.

13 I further certify that I am not related to nor
14 an employee of counsel or any of the parties to the
15 action, nor am I in any way financially interested in
16 the outcome of this case.

17 IN WITNESS WHEREOF, I have hereunto set my hand
18 and affixed my notarial seal of office at Madison,
19 Wisconsin, this 17th day of May 2022.

20
21
22
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24
25

Notary Public, State of Wisconsin
My Commission Expires August 7, 2024

	accurate (9) 44:18;80:1;102:17; 121:25;122:14;201:15; 209:15;242:3,5	276:15	154:9,18;171:5; 186:11;189:18;192:10; 18,18,23;208:4;220:3; 260:14;272:22	125:2;129:17;134:1; 149:19,24;199:20; 249:13;255:2;262:3
#		administration (1) 11:17		
#3 (1)		Administrative (1) 36:4	agreed (5) 88:19;114:10,19; 206:18;232:6	allowable (1) 164:13
251:2		Administrator (2) 67:24;203:18	agreeing (1) 82:7	allowed (13) 46:15;125:17; 131:12,21;181:11; 190:2;192:2,5,22; 217:19;218:5,20; 239:12
\$		admissions (1) 16:21	agreement (20) 37:3;60:12,15,18,25; 61:3,10;71:12;92:1; 114:4;115:12;127:16; 171:10;187:22;192:15; 19;199:5,15,17;200:10	allowed! (1) 183:15
\$1.025 (4)	acorn-type (1) 89:15	adopted (4) 149:23;151:10; 156:22;162:20	Agreements (13) 78:12,15;87:6,7,14, 18;88:25;212:17; 237:14;238:2,3,9,12	allowing (2) 130:5;248:20
46:3;117:19,22; 118:25	acted (5) 273:16;274:12; 275:5,7,15	adopting (1) 153:11	ahead (36) 26:14;27:21;29:7; 33:23;35:13;36:7,18; 39:7,25;43:20;44:4; 45:18;57:16;67:3; 72:18;73:1;93:7;96:16; 98:17;102:2;104:5; 107:24;131:16;132:17; 142:5;143:1;146:1; 152:13;162:13;167:1; 179:22;206:16;241:24; 257:16;259:10;270:12	almost (1) 72:12
\$1.25 (2)	action (2) 164:18;186:6	advance (1) 227:21	aid (1) 121:21	alone (2) 80:16,22
47:11;48:10	actions (1) 219:1	advice (1) 173:12	air (1) 79:5	along (6) 25:17,25;80:6;85:25; 86:5,14
\$1.5 (1)	active (2) 70:18;112:24	advisory (1) 57:25	aisle (1) 258:5	alteration (4) 145:12;164:11,20,23
\$27,000 (1)	activities (9) 20:7;34:24;37:15; 40:18;42:15;58:4; 169:6;175:22;270:4	affect (1) 242:20	al (2) 8:9;127:7	alternative (1) 50:25
143:9	activity (1) 34:5	affected (3) 220:10;255:23,24	ald (1) 249:8	Although (3) 127:5;137:5;171:9
\$400,000 (1)	actual (5) 27:15;55:13;116:8; 118:21;127:14	affects (1) 265:16	alder (33) 100:18;134:12,19; 142:18,20;143:16,23, 23;145:5;148:22; 149:3;168:12;207:3; 211:24,25;222:19,23; 229:11,12,19,22;233:6; 261:22;273:15,17,25; 274:2,4,7,10;275:4,7, 17	alum (4) 14:3;257:11;258:6; 260:15
199:25	actually (9) 13:13;65:21;85:2; 137:6;140:7;186:8; 196:2;206:11,13	affirm (1) 203:17	alders (12) 223:3;229:24; 232:16,17,23;233:4,10, 16,16,19;256:12;273:7	aluminum (2) 147:18,20
A	add (11) 74:23;124:25; 125:17;133:10;134:5; 135:22;150:16;151:3; 11;155:1;166:12	Affirming (1) 87:6	alive (1) 184:8	alumni (1) 256:20
abide (1)	addendum (1) 172:9	afternoon (7) 167:22,25;178:2; 266:14,18;268:13; 269:17	Allen (1) 168:12	always (9) 18:17;80:14;91:20, 21;92:2;122:20; 123:17;242:23;262:16
82:8	adding (2) 139:20;154:24	again (25) 10:24;27:11;30:16; 31:12;41:5;75:15; 85:16;99:6;107:2; 124:21;125:12;132:12; 149:1;157:21;161:2; 175:6;215:12,14; 221:6;222:17;232:13; 245:16;251:24;254:3; 266:16	alleviate (1) 133:23	ambient (2) 79:11;167:8
ability (19)	address (7) 40:21,22;67:22;72:3; 210:6,19,22	against (13) 20:19;125:13; 135:12;136:2,12; 208:6;229:25;248:20; 252:19;253:14;256:12; 260:19;274:5	allow (12) 38:3;58:24;59:8;	amend (13) 130:20;133:9; 149:23;151:9;160:24; 166:6;172:16;174:1; 182:25;204:2,10; 224:9,18
67:15;147:24;176:5; 189:25;200:21;201:1, 6;203:19;216:10; 219:6,14,16,18;220:12, 18;233:7;235:6; 271:16;276:7	addressed (1) 94:4	Agenda (4) 138:9,15;139:6; 227:12		amended (1) 181:2
able (23)	addresses (2) 78:16;251:24	ago (4) 11:25;49:4;141:25; 172:15		amending (5) 129:18,22;176:22; 214:8;225:2
26:7;28:18,20;31:22; 34:8;35:1;47:8;106:23; 124:11;175:19,22,24; 176:2;182:13;204:2; 221:25;247:15;264:6, 7,23;265:7,10;273:22	addressing (1) 79:21	agree (36) 31:18;37:7,21;39:12; 43:2;48:11;49:19;56:8; 75:16;84:7;88:18;93:1; 98:11,19,23;112:22,22; 115:17;127:11;131:20; 132:24;152:14,18;		amendment (50) 129:6;130:7;133:25; 134:5;135:8,13;136:3, 13;137:9;142:21; 143:12,13,17;144:3,5, 20,22;145:13,20; 148:25;149:5;150:8, 16;151:15;155:2; 159:10,25;165:6; 172:7,19,22;173:1,7, 10,18;174:19;186:14;
above (3)	Adjourning (1)			
67:23;68:3;181:7				
absence (1)				
230:1				
absent (2)				
181:11;192:25				
academically (1)				
50:24				
accept (2)				
205:24;275:1				
acceptable (1)				
46:24				
access (1)				
144:16				
accidentally (2)				
10:15;17:8				
accommodate (1)				
271:16				
according (4)				
55:10;110:4;124:1; 188:8				
account (1)				
40:16				
accreditation (4)				
42:23;44:7,9,14				

188:16;190:3,10,20; 192:25;214:12,18; 215:1,24;217:13; 222:21;223:6,12 amendments (3) 113:17;144:4;174:5 American (1) 17:22 amount (3) 47:13;124:14;253:22 amounts (1) 271:8 amplified (1) 191:3 and/or (3) 24:22;146:6;148:7 announced (1) 18:8 annual (2) 36:9;123:7 answered (11) 73:1;111:19;112:2; 115:6;132:17;204:13; 213:17;222:12;260:18; 271:22;272:21 Anthony (1) 257:5 anticipate (1) 26:10 apologize (6) 84:24;95:14;107:14; 240:14;246:20;271:23 Appeal (8) 196:20,22;197:6,10; 201:25;203:2;255:19; 256:5 appealed (2) 196:7;255:9 appealing (1) 255:16 Appeals (8) 196:25;202:2,15; 203:12,14,16,24;204:8 appear (4) 79:22;108:3;117:15; 191:10 appearances (2) 8:14;203:7 appearing (3) 8:25;203:9,13 appears (11) 62:23;63:1;64:4,19; 98:9;99:1;116:2;169:2; 198:24;209:10;257:9 applicant (2) 251:6,25 application (31) 56:3,9,14;150:4; 164:11,19,22;175:18; 179:19;180:2;181:7,9, 17,21,24;183:13;184:2, 21;185:23;196:20; 239:3,6,21;240:13,17,	21,22;250:3,17;261:10, 14 applications (2) 185:24;240:3 applied (1) 84:8 appreciate (4) 69:3;137:5,19; 264:14 approach (1) 119:9 approached (1) 14:1 appropriate (1) 200:13 approval (24) 62:19;66:14;68:3; 72:23;101:8,16,22; 102:21;103:9;104:1; 105:22;106:4,11,20; 130:13;179:10;181:12; 183:13;184:6;217:22; 218:24;251:17;255:1,3 approvals (1) 65:23 approve (3) 105:25;135:7;247:3 approved (19) 54:14;86:11;92:5; 113:16;135:24;148:3, 4;164:12;181:25; 182:15,20,24;190:10, 20;191:13;198:2,4; 217:17;239:12 approving (3) 135:12;136:3,12 approximately (1) 74:23 April (4) 25:20;66:10;196:23; 197:20 architect (2) 101:1;102:9 Architectural (5) 86:17;100:21;106:2, 23;108:11 architecture (1) 61:20 area (15) 17:19,20;35:10;51:3; 85:25;86:8,13;109:23; 117:24;118:12;123:6; 124:2;127:15;170:16; 217:25 areas (1) 95:2 area's (1) 50:23 argue (2) 189:11;192:17 argued (1) 248:20 arguing (1)	204:7 argument (1) 113:18 Argumentative (10) 38:8;136:16;155:21; 182:22;192:4;220:6, 17;247:20;265:22; 272:21 arguments (1) 203:25 Arnsten (1) 168:13 around (21) 17:18;48:21;104:10; 109:1;119:17;142:7; 148:12;158:6;159:1; 173:5;188:6;193:22, 22;222:19;223:4; 231:17;263:3;265:14; 268:16;273:19;274:13 arranged (2) 178:4,9 arrangement (1) 199:4 arrangements (1) 268:21 arrow (2) 63:3;64:5 art (2) 87:24;97:23 article (14) 24:25;116:3,7,9; 117:2,11,15,18;119:18, 21;121:6;124:19; 125:9;126:5 arts (8) 37:19;38:15;105:10, 11,25;106:19;107:5; 272:10 aside (1) 205:1 assistance (1) 108:17 Assistant (3) 180:8;217:4;218:3 assists (1) 36:10 associated (1) 108:12 Associates (3) 169:25;170:3;173:16 Association (21) 44:12;45:4;54:13,22; 70:12,12,22;71:12; 92:8;135:1,2;160:9; 197:12;208:13,14; 209:12,23;238:13; 271:24,25;273:1 associations (18) 60:7,17;70:17;71:17; 72:15;93:2;98:7; 101:16,22;102:21; 103:10;124:9;125:13;	171:1;207:21;238:4; 272:12,15 association's (2) 58:23;59:7 assume (5) 11:3;94:4;108:23; 231:8;233:18 Assumes (1) 45:18 assuming (2) 187:20;242:19 athletes (1) 124:12 athletic (91) 14:11;23:24;24:4,8; 25:16,24;26:4;34:5,14; 39:24;40:8;42:15; 45:21;46:3;47:9,13,20; 49:17,22;52:14,18,22; 58:18;77:11,21;93:4; 95:20;98:13,25;99:18; 111:12;119:15;121:22; 124:5;126:16;138:20; 141:9;149:17;150:7, 18;151:23;152:5,8; 153:10,20;154:4,10,19; 155:12,14,22;156:21; 157:2,15;158:19,19; 162:20;164:13;165:5; 166:14;167:24;175:1, 11;178:14;180:18,19; 181:10;186:8;195:25; 202:1;210:15;217:18; 218:21;219:19;220:2; 222:6,15;243:10; 249:14,24;250:4; 257:5;259:16,20; 262:3,16;265:7;267:8, 22;268:1,3 athletics (5) 24:5,6,15;28:22; 38:16 attached (8) 116:9;134:11; 168:18;171:17,21; 191:4;239:5,16 attaching (1) 224:2 attempt (1) 39:20 attempting (1) 118:25 attend (9) 127:20;202:8; 226:11;252:14;265:19; 266:11;269:1,7,10 attendance (1) 269:4 attended (6) 80:10;202:18; 211:15;215:20;228:5; 237:22 attending (3)	128:16;212:4;268:22 attention (20) 25:9;43:9;50:17; 54:24;59:19;66:13; 71:1;104:14;126:12; 152:17;179:14,16; 180:15,23;183:7,11; 210:13;248:3;249:5; 253:5 attorney (18) 162:6,6;163:14,19; 178:24;180:8,8; 181:16;183:3;186:22; 196:16;197:3;204:19, 20;205:14,15;217:4; 218:3 attorneys (2) 203:9;228:12 attorney's (1) 229:15 attract (1) 51:23 attracting (1) 51:11 August (24) 25:1;54:21;56:15; 206:21;207:18;208:9; 209:18;210:8;211:11; 212:5,5,22;215:3,21; 216:4;217:5;221:3,8, 23;222:15;225:14,18; 237:9,21 automatically (1) 88:7 available (5) 27:25;30:5;126:3,7,7 Avenue (1) 76:19 average (2) 121:18;166:19 avoid (1) 103:8 aware (96) 20:3,6;23:2,5,6;24:3, 8;28:6;34:13,20,23; 35:3,4;39:3,8,15; 42:17;52:18,20;53:13, 16;54:2,4,6,7,11,11; 55:21;56:21,24;57:3, 11;58:21;59:4,5,12,14, 18;60:1;61:13;68:22; 71:20;73:6,10,11; 79:20;80:23;96:7,9; 103:20;132:21;133:13; 165:3,7,8,13,23;169:9; 176:16;177:19,24; 178:14;193:6,10,11,12; 194:1;207:15;208:11; 216:3;219:4,17;222:7, 13,14;223:1,2,8; 225:13;226:3;236:24; 237:1;238:2;240:2,21; 255:25;256:3,23;
---	--	--	---	--

257:2,13;265:12; 267:13,15;269:18; 273:14;275:6 away (8) 21:25;33:1,19,20,21; 79:8;263:15,22 awhile (3) 39:11;120:1;141:25	173:25 basically (3) 35:22;67:13;131:2 basics (2) 104:14,15 basis (3) 46:23;177:3;253:21 basketball (5) 20:14;22:3,5,13; 26:25 Bates (2) 163:22,23 bathroom (1) 200:3 bathrooms (2) 147:23;199:24 battle (1) 112:8 bearing (1) 210:14 beautiful (1) 273:21 became (7) 57:3;58:21;59:4; 78:22;126:3;141:18; 189:5 become (4) 13:24,25;126:6; 265:13 becoming (1) 242:25 began (3) 24:14;70:8;172:13 beginning (7) 66:23;120:4;173:4; 179:3;188:20;244:22; 273:20 begins (4) 94:8;156:18;179:13; 205:13 behalf (9) 8:18,21,24;67:6; 70:4;82:4;162:8,15; 203:13 behind (2) 253:6;254:1 belief (4) 154:14;157:13; 159:25;181:20 believes (3) 111:18;190:9,19 below (5) 73:20;138:15; 258:22;259:7,13 benefit (6) 101:9,20;103:15; 117:8;129:20,21 benefits (2) 103:7;120:23 besides (1) 208:12 best (14) 10:10;19:19;28:17;	67:15;69:25;113:5; 124:13;178:16;186:21; 213:19;224:15;226:13; 255:8;276:7 better (6) 99:11;111:18;112:2; 149:24;245:10;262:24 beyond (2) 56:18;189:6 Bidar (8) 226:9;227:5,10; 228:19;231:6,17,25; 232:5 big (3) 245:1;262:7;265:12 bigger (2) 120:13;150:21 biggest (3) 262:12,16;264:20 Bill (1) 55:10 blaming (2) 135:18,21 bleachers (4) 58:7;144:6;147:19, 20 blinds (2) 88:6,12 block (1) 63:13 Board (27) 15:12,16,25;16:2,4,8, 13,22;18:11;110:8,10, 16;112:6;113:1;115:1; 154:7;196:25;202:1, 15;203:11,14,16,24; 204:8;230:20,22; 259:14 boards (2) 15:20;242:23 boardwalk (2) 84:20;85:11 bollards (1) 89:16 boom (1) 121:2 Born (1) 11:22 both (33) 10:7;12:9;27:17; 29:13;32:3;71:17; 72:10,15;83:25;84:12; 118:5;121:17;128:5; 142:14,15;143:24; 147:15;167:16;173:12; 208:1,2,5;215:4,24,25; 216:24;217:12,16; 218:3;258:4,4;268:5,7 Bottom (21) 63:22,23;64:3;65:10; 79:2;85:14,16,18;95:8; 110:22,23;120:20; 133:14;134:18;155:6;	163:21,22;187:12; 236:1;250:10;259:7 Boulevard (1) 68:1 box (1) 84:16 Boy (1) 141:25 Boyce (1) 223:24 boys (13) 26:25,25;27:1,1,2,3, 4,6;31:8;32:3,7,10; 126:22 brand (2) 104:6;128:23 break (11) 11:7,8;48:6;50:1; 109:1;156:6;161:12; 194:14,25;266:21; 270:12 Breese (4) 28:4;29:25;30:2; 199:2 Breitenbach (3) 126:21;127:5,11 Brian (10) 160:1,2;162:19; 168:12;173:15,17,22, 25;177:16;254:12 brief (1) 11:14 briefly (2) 45:20;237:16 bring (3) 60:3;70:25;111:11 bringing (1) 262:12 Brinkman (4) 257:5,11,13,19 broadening (1) 38:17 broader (1) 189:22 broken (1) 263:24 Brook (1) 55:11 brought (7) 25:23;57:17;59:19; 139:9;141:11,18;228:9 buffer (4) 83:18;84:18;85:10, 23 build (7) 26:3;104:24;124:24; 137:25;138:24;144:11; 151:3 building (37) 24:4,15;26:8,17; 52:6;66:16;67:25; 73:22;83:2,3;85:15,19, 20;86:1,10,21;87:21,	24;88:2,11;89:7;90:15; 92:3;101:8;103:15,17, 19,23;104:3,16;105:18, 20;124:11;176:9; 217:24;249:13;265:16 buildings (15) 75:6,10,19;79:3; 80:5;82:11,23;83:5,13; 86:18,24;96:18; 103:10,22;272:3 built (1) 103:16 bullet (5) 79:2;81:6;98:20; 138:19;200:25 bulleted (1) 198:23 bumped (1) 235:13 bunch (1) 138:12 burden (2) 262:4;264:3 burdening (1) 264:17 bus (3) 33:11,19;263:5 buses (2) 33:24;266:19 business (2) 11:17;12:18 butcher (1) 19:18 buy-in (2) 72:24;73:3
C				
call (6) 27:14;46:19;110:17; 150:21;203:7;211:9 calling (2) 151:17;155:18 Calls (9) 35:13;102:7,25; 103:13;161:8;179:9; 182:17;219:10;256:18 camaraderie (9) 266:5,7;267:19,21, 22;268:1,2;269:8,11 came (12) 57:9;112:10;119:4; 163:24;179:16;221:9; 245:21;246:24,25; 254:15;260:5;266:3 campus (57) 18:20;23:25;26:18; 53:18;61:4;69:4,11,18; 71:3,8;73:17,21;74:1, 10,21;77:14;79:3; 80:18,20;81:12;89:23; 90:5,7,11;91:4,6;94:9; 102:12;107:12;108:10;				

118:13;123:12,21; 127:18;134:1,6; 149:23;156:22;162:21; 167:4;180:20;181:1,1; 183:14;205:16,18; 206:3;242:21;243:8; 244:8,9;245:2,6; 249:10;262:13;266:4; 269:14 Campus- (1) 131:21 campuses (1) 149:21 Campus-Institutional (7) 53:15;61:15,25;62:9; 101:9;237:13;249:9 campus's (1) 206:6 can (89) 8:16;10:24;11:8,14; 12:6,16;16:4;22:15; 29:8;30:15;31:18; 34:22;35:9;36:5;38:9; 39:2;41:12;42:7;45:9; 46:19;49:1,25;50:10; 57:21;59:3;62:15,20; 63:14;64:22;66:7; 77:24,25;78:1;79:7; 92:16;95:10;99:16; 108:3,14;115:19; 119:22;120:3,8,13,16, 19;124:14;130:25; 136:19;137:7;140:19; 141:23;143:4,9,25; 144:21;147:8;148:13; 155:5,17;160:11; 161:24;164:25;177:7; 180:3;184:7;189:18; 190:9,19;193:7,15; 194:13;228:15;230:7; 235:15;236:25;240:9; 242:11;246:17;262:23, 24;265:18,25;266:2, 25;269:9;270:11; 271:9,15 Cantrell (2) 214:15,24 capacity (5) 15:22;109:19;200:2, 3,3 caps (1) 113:15 capture (1) 39:20 captured (2) 124:21;242:1 care (1) 271:20 career (1) 14:4 carefully (1) 84:17 Carey (1)	72:10 Case (7) 8:11;24:24;77:4; 104:23;189:11;192:17; 229:9 casual (3) 61:7;121:8;122:17 Catholic (17) 14:7,11;19:2,7; 35:24;36:1,22;37:1; 39:4;51:3,5,6,13;52:1; 262:25;265:17,18 cced (1) 168:13 cease (1) 178:3 Cell (1) 238:7 center (2) 105:10;272:10 Central (1) 44:13 certain (3) 180:13;185:22;230:1 certainly (4) 144:4;232:7;240:9; 268:20 certifications (1) 14:14 certified (2) 165:16,21 cetera (2) 251:9;275:15 challenge (1) 264:22 challenged (1) 96:23 challenges (1) 50:23 challenging (1) 189:9 chance (4) 40:5;55:8;100:13; 209:2 change (24) 53:22;61:19;62:8; 103:10;129:2,6; 136:19;148:3;178:13; 186:14;188:16;191:22; 193:24;215:24;217:13; 220:13;221:21;222:2, 7,14;223:2;228:20; 231:18;233:19 changed (11) 60:15;61:14,14; 99:24;148:2;188:13; 189:16;193:18;216:10, 13;253:19 changes (11) 45:9;49:16,22;61:24; 62:4;80:24;212:16; 215:5;232:18;237:12; 242:13	changing (5) 104:3;192:1,6; 225:10;272:2 chapel (2) 96:22;97:23 Chapters (1) 94:15 Char (1) 56:13 charge (3) 23:18,22;274:5 charges (4) 23:21,23,23;24:1 check (1) 222:5 cheek (1) 143:21 cherish (1) 264:11 child (1) 266:22 children (1) 33:21 choice (1) 121:10 choose (1) 128:9 church (1) 36:23 churches (1) 262:22 CI (10) 164:11;212:16,19; 214:8;215:24;217:13; 231:19;232:18;237:15; 249:9 circle (1) 76:13 circles (1) 193:23 circulation (1) 68:2 citation (1) 196:3 citations (2) 160:17,21 City (150) 8:8;14:21,25;25:5,7; 29:23;30:4;33:5,10; 35:7,11;52:12;53:14; 54:9;56:18;61:14; 62:19;65:23;68:2,9,20; 69:20;86:9;90:5;91:7, 22,23;100:18,19; 104:1;105:2,23; 106:15;112:7;118:2, 14;125:3;129:1,13,15; 130:18,22;131:11,20; 132:13;135:7,11; 136:1,11;144:17; 145:8,18;152:2;155:7; 160:4,13,16;161:5; 163:13;164:23;165:4,	9,14;170:10;172:10,16, 21;175:2,13,18; 176:16;177:1,4,9,20; 178:24;179:19,25; 180:7,8;181:16; 183:11;184:20;186:21; 189:1,3;190:9,19; 191:8,10;193:19; 195:17;196:17,22; 201:1,6;202:13;204:7, 19;205:13;206:22,24; 211:9;213:5,7,15,20; 217:4;218:2,3;219:2; 223:11;224:11;225:9, 15;229:14;233:25; 234:20;235:1,3,24; 239:3,5;244:1;249:6, 21;250:4,16;253:25; 254:14,22;261:8; 262:15;270:3;273:7,7, 15,15,16,16;274:10,10, 12;275:3,4,5,13,14,15, 17 city-owned (1) 30:1 city's (12) 66:9;129:9;130:5; 149:13,22;184:11; 191:22;202:1;227:12; 229:15;245:22;262:2 citywide (1) 234:4 claim (5) 153:7,8,14,16;174:8 clarification (5) 11:2;46:13;69:3; 112:17;137:19 clarified (2) 10:23;230:2 clarify (4) 10:23;27:22;34:13; 113:5 clarity (1) 30:15 Clarke (2) 100:17;103:6 classes (21) 95:22;98:15;99:3,20, 24,25;122:10,10;176:3, 5,6,13,23;177:6,21,25; 178:1,5;191:16,24; 264:7 classify (1) 129:16 classroom (2) 37:17;96:21 classrooms (1) 89:6 clear (6) 76:3;97:13;137:4; 182:6;189:19,21 clearly (1) 145:2	client (1) 162:16 clip (1) 93:13 close (1) 270:12 closed (2) 254:6,8 closely (2) 102:9;152:2 closer (1) 143:22 club (1) 32:15 clubs (1) 38:15 CLVS (1) 8:2 Coach (1) 127:7 coaches (1) 14:10 cocurricular (3) 37:15;38:14,17 code (2) 189:4;215:5 coffee (2) 232:1,5 coincided (2) 154:5,19 Cokes (1) 194:17 Collaborative (1) 197:20 collectively (1) 205:17 college (63) 12:5;15:17;18:24; 19:3,4,5,7,11,24;22:10, 16,22,24;23:2,6,9,14, 19;24:1,4,14;25:24; 26:3,8;31:16;69:18; 71:5;77:14;80:6,9,13, 16,19,20,21;82:15; 83:6,14,24,25;84:12; 94:18,24;96:25;102:8; 103:16;107:3,11; 109:12,14,18;112:9; 133:12;135:20;205:17; 210:6;242:20;243:8; 244:2,6,7,8;245:5 column (4) 25:13;79:2;89:2; 117:1 coming (4) 71:5;114:9;246:10, 22 comments (1) 67:22 Commission (61) 54:9;106:6,10,20; 153:4;172:10;181:12; 207:11,16;208:9;
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210:10;211:11,25; 212:4,6,13,21,22; 213:4,14;214:7,16,25; 215:4,7,13,15;216:2; 217:4;218:11;221:4,9; 225:14;229:3,5,13,14, 25;234:18;235:11; 236:4,16;237:4,9,20, 21;243:21;245:22; 246:1,4;250:18,22; 251:1,17;252:6,10,16; 254:25;256:5,11; 261:17	267:4;268:7 company (1) 169:23 comparable (1) 79:12 compared (1) 122:11 comparing (1) 99:21 competition (2) 39:24;124:4 competitions (1) 23:12 competitive (28) 20:18;22:4,9;27:19, 24;29:3,10,19;30:11, 11,18,21;31:3;32:4,14, 25;33:8;50:24;53:7; 198:23;200:22;203:19; 220:12;221:2,7,12,16, 22 competitor (1) 52:10 compiled (1) 94:15 complained (2) 105:3;131:5 complaint (2) 131:9;195:18 complaints (4) 81:4;131:10,11; 141:17 complete (4) 11:12;25:19;106:23; 129:17 completed (7) 16:12;105:5,9;108:7, 11;154:5,11 completely (5) 10:9;23:14;26:17; 135:14;186:18 completeness (1) 99:5 complex (26) 23:3;24:4,9;25:16, 17,25;26:4;35:22; 45:21;46:4;49:17,22; 58:18;126:23;149:18; 150:7,18;151:23; 152:5,8;166:14;175:1, 12;249:15,24;259:16 compliance (3) 180:19;181:8;184:22 compliant (1) 183:13 complicate (1) 25:22 comport (1) 250:19 comprehensive (2) 25:6,10 comprised (1) 18:20	concern (9) 86:6;92:14;111:18; 112:1;113:4;209:5; 210:10,18;235:4 concerned (2) 115:3;157:9 concerns (10) 81:22;88:13;89:21; 122:15;140:24;141:2, 6,11,14;243:9 concessions (2) 172:14;200:3 conclude (1) 174:19 conclusion (4) 103:1,13;182:17; 219:11 conditional (32) 53:25;54:9;56:4,10, 14,22;57:5,14;58:1,24; 59:7,13,15;73:7; 105:13;217:22;249:9, 24;250:2,17,23; 251:18;252:18;253:13; 255:1,17;256:2;258:7; 261:9,13,16,23 conditions (5) 66:14,21,24;67:23; 68:8 conduct (1) 180:17 conducts (1) 22:4 conduit (4) 125:1,15,25;132:8 Conference (2) 33:2;149:21 conflict (2) 191:13;242:12 conflicting (1) 242:16 confused (2) 30:16;234:2 confusing (1) 10:20 conjunction (2) 78:17;84:17 connect (1) 233:7 connected (1) 106:24 connections (1) 133:4 Connors (3) 258:22;259:2,15 consent (1) 206:1 consider (1) 14:2 Consideration (4) 196:24;236:8;249:8; 267:2 considered (6)	129:12;183:21; 184:3;215:12,14;216:1 considering (6) 183:12;222:20; 223:5;224:21;225:2; 251:24 consistent (3) 190:1;192:21,23 constant (1) 193:20 constituents (2) 233:21;274:5 construction (5) 67:9;140:7,10; 217:24;250:11 consultant (2) 13:25;160:3 contact (3) 119:11,13,22 contacted (3) 45:3;140:9,21 contained (2) 66:17;276:6 contending (1) 184:20 contentious (1) 112:8 contest (1) 26:4 contests (5) 40:9;47:9;180:18,19; 265:7 continually (1) 103:17 continue (13) 18:4;23:22;44:13; 88:6;126:20;159:9; 163:4;187:21;189:11; 190:23;199:9;264:4,5 continued (4) 189:9,10;216:6; 270:24 continuing (4) 42:9;89:1;123:10; 192:16 contract (2) 37:3;131:19 contractor (1) 185:7 control (2) 73:5;170:17 conversation (33) 60:13;61:8;92:1; 121:7,8,14;122:3,18; 124:21;147:14;156:20, 25;157:4,8,19,25; 158:6,21;159:1,7; 174:21;193:12;194:2; 229:1;231:23,24; 232:1,4,14;244:16; 267:17;273:21;275:13 conversations (21) 60:1,11;61:9;90:2,	12,22;119:2;132:19; 150:24;165:17,18; 177:17;193:16;194:5; 200:5;222:23;223:1,3, 15;233:5;273:13 convince (3) 232:17,24;234:13 convinced (1) 231:22 coordination (1) 265:10 copied (2) 65:18,20 copies (2) 64:9;67:23 copy (11) 63:3,18;64:9;65:14; 163:18;164:1;168:6, 19;190:24;191:4; 239:15 corner (1) 25:1 corporate (2) 36:10;245:4 Corporation (1) 140:5 corrected (1) 151:16 correction (1) 114:16 correctly (49) 66:18;79:13;81:9; 84:21;87:10;88:8;89:9, 18;101:10;112:3,11, 18;113:1,6,20;117:9; 121:23;123:13;124:6, 16;134:3;143:14; 150:1;156:23;162:22; 163:4;164:15,20; 165:1;168:20;172:23; 180:20;181:3,13; 191:17;197:1;199:6; 201:13;205:19;206:4; 214:19;227:8;237:17; 242:14;248:7;249:15; 250:24;251:10;258:25 correspond (1) 73:21 correspondence (2) 274:15;275:2 cost (4) 141:19,23;143:8; 274:20 costs (1) 263:16 council (34) 56:15;106:7,11; 112:7;207:12;208:12; 209:4;210:9;217:17; 218:17,25;226:4,12; 227:4,17;228:5,13; 229:3;232:9;233:10; 234:16;243:20;246:8,
--	--	---	---	---

11,22;247:3,8;248:5; 23;255:25;256:4,8,11; 261:18 counsel (16) 8:13;36:10;41:23; 46:12;47:2;48:5;62:22; 65:18;78:9;92:16; 108:21;116:17;174:7; 224:14;228:10;238:20 counted (1) 154:15 counter (2) 233:4,6 County (2) 18:15,18 couple (4) 21:20;73:25;127:4; 155:14 course (1) 169:9 Court (15) 8:10;10:6,17;46:20; 63:6;64:14;69:16; 107:18;138:6;139:16; 166:4;202:22;208:21; 248:15;253:9 covered (1) 275:9 COVID (2) 255:21,23 crafting (3) 112:6;114:4,12 crazy (1) 199:22 created (6) 53:14;61:14,15,25; 78:15;235:5 crowds (2) 147:25;266:9 Crusaders (3) 126:22;127:6,12 curb (3) 75:23;76:16;77:2 current (12) 26:11;35:6;43:11; 52:23;126:2;127:1; 129:14;156:20;163:2; 187:17;190:2;259:16 currently (10) 12:13;21:5;24:4; 43:24;45:7,14;191:8; 194:6;198:22;220:24 curriculum (1) 12:21 cut (4) 64:4;75:23;77:2; 88:3 cutoff (4) 89:16;90:6;91:7,7 cutout (1) 76:16 cycle (1) 44:10	D damage (1) 220:7 Dane (2) 18:15,18 dangerous (1) 123:20 darkness (1) 178:3 date (22) 8:4;15:6;68:14;70:8; 133:4;138:1;148:15, 17;155:25;167:18,19, 21;168:15;189:15; 219:8,20;223:8; 240:24;246:9,24,24; 258:16 dated (35) 25:1;42:23;66:10; 72:6;93:23;100:9; 110:6,24;111:6;116:4; 133:17;150:13;156:15; 162:2;171:15,18; 178:25;180:9;186:6; 187:5;195:4;196:17, 23;204:20;205:10,14; 209:18;217:5;237:4; 240:18;253:3;254:22; 257:6;261:5;276:3 dates (9) 16:6;68:18;169:3; 224:23;226:6;234:24; 235:11;245:11,17 day (16) 127:24;176:1;220:1, 25;221:3,25;225:13; 227:12;238:8;246:16; 266:7,9;267:21;268:1, 8;270:2 days (1) 163:12 daytime (1) 271:7 day-to-day (1) 36:12 Dear (2) 259:5,8 debate (2) 91:20;92:24 debated (1) 181:22 December (7) 93:23;133:17; 167:22,25;169:6; 245:22,25 decibels (2) 166:19,19 decided (4) 98:12;151:2;201:19; 207:3 deciding (1)	212:23 decision (8) 55:13;203:17,24; 239:10;252:5;255:9, 16;256:5 declining (1) 43:2 decrease (1) 49:14 decreased (1) 49:8 decreasing (1) 53:3 deemed (1) 21:25 defendants (1) 8:25 Defendants' (1) 275:22 define (2) 41:2;147:15 defined (2) 40:16;97:11 defines (1) 151:12 defining (2) 157:10;158:12 definition (1) 157:9 degree (6) 11:16,23;12:1,3; 14:13;28:22 degrees (1) 14:14 delay (2) 227:5;231:18 delaying (4) 231:13;232:3,13,17 demand (1) 136:7 democratic (2) 233:9;234:8 denial (1) 262:2 denied (4) 164:23;181:17; 182:18,19 department (3) 68:2;121:22;149:13 depend (1) 18:4 depended (1) 80:17 Depending (1) 270:8 depends (1) 91:5 depicted (1) 55:14 depiction (1) 167:8 depictions (1) 167:11	deponent (1) 8:11 deposition (12) 8:6;62:18,25;64:7, 21;65:15;171:13; 195:13;204:18;205:4; 211:8;217:2 describe (2) 36:5;139:24 described (4) 49:21;92:24;142:6; 191:12 description (4) 11:14;86:7;151:9; 154:24 design (4) 100:21;106:2,23; 108:12 designed (2) 84:17;90:10 desire (4) 26:19;91:17;92:12; 166:6 desired (1) 242:13 despite (1) 131:11 details (1) 105:22 deterioration (1) 123:11 determination (1) 225:11 determined (1) 56:16 develop (1) 120:2 developed (1) 244:12 development (1) 123:8 diagram (1) 85:6 difference (3) 244:17,24;270:9 different (31) 15:7;16:3;18:21; 27:25;31:9;34:7;45:13; 64:19;84:2;96:18,24; 97:11,24;98:21; 124:22;175:22;176:5; 185:1,17,19;187:19; 188:10;189:7,12; 193:4,24;233:20; 242:22,23;264:4; 266:19 differently (1) 91:25 difficult (4) 105:1;106:16; 242:22;243:1 dig (1) 133:3	diligently (1) 149:22 dimensions (1) 31:8 diocesan (1) 51:25 direct (8) 25:8;43:9;50:17; 54:24;89:6;120:18; 126:12;180:15 directed (2) 160:1,12 Directing (5) 66:12;180:23;248:3; 249:5;253:5 direction (8) 42:11,14;186:17,21; 224:11,15;274:20,23 directions (2) 193:18,18 director (4) 126:16;178:14; 222:6;257:6 Directors (1) 15:13 disagree (3) 48:13;49:19;104:19 disagreed (1) 158:12 disagreement (1) 135:16 disagrees (1) 164:5 discriminated (3) 135:11;136:2,11 Discuss (2) 70:24;164:25 discussed (6) 91:13,16;145:12; 185:4;195:18;215:6 discussing (3) 76:6;135:3;211:15 discussion (10) 80:7;92:9;114:18; 130:22;164:14;214:8; 222:18;223:9,10; 236:10 discussions (15) 26:2,6;55:21;61:18; 80:1,8;91:25;92:7; 129:5;130:18;132:13; 148:7;165:9;224:7; 225:23 displayed (1) 40:18 dispute (1) 104:19 disruptive (1) 266:11 distinct (1) 242:11 distinction (1) 29:6
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District (16) 8:9,10;53:15;61:15, 25;62:9;131:22; 134:12;212:16;214:8; 231:19;232:18;237:13; 249:8,10;274:1	Doug (2) 100:17,24 dove (1) 104:8 down (22) 10:6;25:13;43:12; 56:6;57:22;58:4;73:19; 86:14;88:3;89:11; 120:22;123:23;127:4; 170:11;172:6;174:23; 179:8;181:5;186:16; 198:16;200:25;266:21	156:20;157:1,20; 227:12;238:8;240:5; 271:22 early (6) 123:8;193:16;194:4; 205:18;263:10,12 earn (1) 262:10 easier (5) 104:24,24;116:11; 120:11,13 east (1) 128:11 easy (1) 43:7 Ed (3) 94:15,17,18 Edgedome (5) 22:6;77:7,10,13,16 Edgewood (391) 8:7,19,21;11:18; 12:14,24;13:7,11,18, 24;14:3,5,9,24;15:3,11, 22;17:10;18:2,4,12,20, 23,24,24;19:2,4,10; 20:24,25;21:9,15,22; 22:10,16,22,24;23:2,6, 8,13;24:3;25:16,24; 26:7,20,21;27:19,23; 28:17,20;29:11,12,19; 30:4,10,18;31:3,15; 32:4,14,20;33:3,11,19, 24;34:4,23;35:6,21; 37:3,22;38:9,12,25; 42:18,23;43:1,24; 44:11;45:8;47:12,20, 25;50:23,25;51:6,12, 17,18,23;52:10;53:6, 17,21,25;54:4,11,19, 25;55:23;56:3,23; 57:13,23;58:22,22,24; 59:5,6,8,12,14,21,25; 60:5,12,18;61:10,23; 62:3;66:25;67:6,10; 68:7,23;69:1,4,6,11; 70:3,5,18;71:3,11; 72:11,23;73:8;74:1,7; 76:19;77:15;79:5;81:3, 19;84:19;88:19;89:8, 23;90:25;91:17;92:2, 13;95:20;97:17;98:11, 13,25;99:18;101:21; 102:20;103:8,15,25; 106:22;108:10;109:12, 14,18;110:13;114:10, 19;115:13,15;117:3, 24;118:3,6,8,9,10,11, 14,17,18,22;123:5,19; 126:17;127:22;128:2, 7,18,22;129:17,21; 131:23;132:7,14,25; 133:9,25;134:1,15,25; 135:12,25;136:2,12,23;	137:23;138:9,22; 139:19;140:1;141:8; 146:10;147:9;149:20; 152:10;153:4,8,15,20; 156:22;160:5,23; 161:5;162:6,9,16,17; 164:10,25;165:10,19; 166:8;167:24;168:24; 169:10;170:2;171:2, 18;172:8;174:24; 175:10;177:25;178:4, 9;179:5,20;181:24; 182:10;183:14,20; 185:7,11,24;186:5,12, 13;187:8;190:1,25; 191:5,11;192:1,7,12, 22,24;193:7,14,15,21; 194:3;195:17,24; 196:2,7,20;197:3,7,11; 198:25;199:9,20; 200:11,13;201:8,15,23; 203:13,25;204:1,9; 205:15,16,16,17,25; 206:6,19,21,24;207:17; 208:6;209:1,22; 217:19;218:4,20; 219:2,6,7,17;220:4,7, 10,13,24;221:7;222:19, 20;223:5,11;224:8,18, 21;225:2;226:4; 229:16;234:20,25; 235:10;238:3,12; 240:2,17,21;243:8,9; 244:12,17,22;245:3,4, 9,15,18;246:4;248:1, 20;249:14;250:11; 252:19;253:15,18; 254:1;255:9;256:12, 20;258:6;259:5,8,14; 260:5,14,15,19;261:9, 13;262:24;263:8; 265:19,20;266:1; 267:7,8;268:10,10,11, 23;269:2,13,22;270:6, 24;272:2,3;275:21 Edgewoodedu (1) 210:2 Edgewood's (103) 15:16,17;29:2;31:11, 20;32:25;33:8;42:17; 53:11;54:7;56:9,13; 57:5;62:19;65:22; 69:21,24;70:13,19; 71:18;80:25;81:12; 91:4;93:3;96:4;98:3; 100:19,20;105:5; 110:8;111:11;118:13; 124:5;136:5,6;150:16; 157:15;160:17;162:19, 21;163:2,13,24;164:6; 165:5;166:6,12;167:4; 169:12,20;180:2; 181:7,16;184:21;	203:2,18;204:20; 206:7;207:4,20,22; 208:14;209:6;211:21; 212:7,24;213:24; 215:4,25;217:12; 218:16;221:9,21; 222:15;225:21;227:5, 11;228:21;229:4; 230:22;234:17,21; 235:2;236:3;239:2,6, 20;245:21;246:21; 247:4,9;248:6,19,24; 255:1,17;256:1,21; 257:13,20;258:7; 259:19;273:11 educate (1) 37:13 education (24) 12:15;14:17,19; 36:25;98:15;99:2,19, 25;121:17,22;122:8, 10;157:16;176:12,18, 23;177:6,11,21,24; 178:1,5;191:15,24 educational (2) 11:15;266:1 educations (2) 95:21;99:24 effect (8) 66:16;67:1;68:4,7; 213:25;225:19;244:19; 245:10 effective (1) 242:9 effort (3) 111:17,25;133:23 efforts (1) 111:11 EHS (6) 95:9;163:22;197:19; 198:22,24;226:22 EHS' (1) 200:21 either (10) 10:20;32:9,12;33:17; 107:11;147:22;173:22; 190:3;250:12;270:10 elapsed (1) 68:19 election (2) 25:10,20 electrical (5) 79:4,15,22;83:22; 84:7 elementary (2) 51:13;52:1 elements (1) 112:15 elevator (1) 107:5 eliminate (1) 188:22 eliminated (1)
division (1) 66:9 DMNA (1) 72:10 D-MNA (1) 56:15 DMNS (1) 200:25 document (82) 25:5;40:1,2,5,9,25; 41:10,11,12,13,16; 42:5;43:6,20,22;52:4; 55:17,18;56:9,12;57:1, 1,21;58:13,19;62:20; 66:2,4;67:10,13;68:22; 74:4;77:23;82:4,7; 86:7,13;90:21,23; 93:18;94:25;96:19; 100:3;103:19,19; 104:11;110:5;111:21; 116:25;120:11;140:4; 142:13;152:24,25; 153:1,3;154:13; 168:23;180:10;184:12; 187:2;191:1,13; 197:19;198:1,11; 208:25;209:5;210:22; 211:12;214:3;217:6, 10;230:13;236:22; 237:1;238:22;239:15; 257:16;260:25;275:25; 276:6 documents (3) 195:12,16;211:10 dollars (1) 274:20 Dominican (12) 19:12;35:17;36:24; 37:4,9;38:5,21;39:9; 42:10;83:2,5;262:25 donating (1) 119:9 donation (2) 47:12;118:25 done (18) 61:21;75:17;90:21; 92:10;105:2,14; 131:18;148:4;152:9; 155:12;161:6;178:18; 193:17;224:25;226:8; 252:12;270:12;274:23 donors (1) 263:16 double (1) 82:20 doubt (1) 260:13	draft (5) 94:14;98:9;198:1,2,4 drafted (2) 68:22;69:5 drafting (4) 69:11,21;94:20; 171:25 drafts (3) 94:21;95:4;98:3 dramatic (1) 152:15 dramatically (5) 101:7;147:16;153:9; 199:16;216:10 drawings (1) 155:14 drawn (4) 29:6,7;63:3;64:5 drive (15) 33:17,17;34:1;84:19; 85:11,24;89:8;127:17, 21,25;128:2,6,16; 268:16,24 driven (1) 135:14 dry (1) 122:11 Dudgeon- (1) 54:21 Dudgeon-Monroe (4) 70:11;135:2;208:13; 271:24 due (2) 123:10;255:21 dumpsters (1) 83:17 Dungeon-Monroe (1) 134:10 duration (1) 201:11 during (6) 11:7;59:20;80:25; 232:15;234:15;241:17 duties (1) 12:17			
	E			
	earlier (14) 41:23;45:20;47:5; 53:6;65:14;69:1;102:9;			

187:24 Ellen (1) 242:2 Ellingson (1) 100:18 Elliott (51) 8:12;19:17;24:19; 39:18;40:6;54:18; 62:17;65:8;92:24; 109:11;110:3;111:23; 112:2;120:22;124:1; 133:8;142:11;145:5; 149:10;156:13;157:24; 161:23;162:18;163:9; 171:12;180:6;184:16; 186:11;25;194:25; 195:12;21;196:15; 204:17;205:3;208:23; 209:1;211:7;230:12; 235:21;236:21;247:24; 253:1;257:1;260:10; 24;262:2;270:20; 274:9;275:12;276:10 Elsa (2) 258:22;259:15 else (15) 21:16;41:8;61:9; 64:17;91:24;92:3; 137:20;147:10;158:18; 25;213:9;241:20; 254:15;259:11;264:16 else's (1) 92:6 elsewhere (3) 33:9;269:22;270:6 email (84) 71:24;72:2,5,6; 93:22;94:1,8;100:7,13; 102:5,8;104:20;110:5; 22,22,23;111:5,23; 113:9,14,25;114:2; 115:4,17;138:8; 142:17,17,20;146:11, 21;148:23;149:2; 156:14,18;157:13; 158:11,22;159:8,14,16; 160:1,8;162:10,17; 168:12,15;187:4,13; 188:8;195:3,6;209:17, 24;210:2,6,16,19,22; 223:23;226:20,22; 230:20;231:6,21; 235:22;236:13;238:24; 239:16;247:25;248:11; 253:2;257:1,4,19; 258:13,21,22;259:4,5, 13,21,25;260:10;261:5 emails (8) 103:5;114:8;115:7; 210:24,25;224:2; 230:16,25 employed (2) 12:13;18:11	employee (5) 273:15,17;274:10; 275:4,17 employees (2) 242:3;273:7 employment (1) 13:19 enabled (1) 219:22 enacted (2) 206:11,13 Enclosed (2) 196:19;249:12 end (6) 14:4;120:4;146:17; 181:5,6;215:23 ended (1) 198:7 endorsed (1) 134:9 energy (1) 268:7 enforce (1) 165:4 enforcement (2) 164:18;219:1 engage (4) 20:8,10,13,14 engagement (1) 252:1 engages (1) 20:4 engaging (1) 20:6 enjoyment (2) 251:4;256:15 enough (24) 15:10;104:17; 122:21;125:19;132:18; 136:9;139:7;161:10; 167:6;178:19;179:24; 184:15;201:22;204:25; 209:16;211:1;213:9, 19;218:10;221:25; 233:9;240:9;242:6; 263:9 enrich (1) 152:4 enrolled (1) 45:7 enrollment (19) 42:18,19;43:2,11,17; 44:21;45:14;47:25; 48:11,14,18;49:8,10, 14,18;51:24;53:2; 263:21;264:5 ensure (2) 79:9;81:7 entered (1) 127:15 entities (5) 15:19;242:23; 244:13,24;245:14	entitled (1) 197:19 entity (4) 244:12,22;245:1,4 entrance (1) 200:4 equipment (8) 79:4,4,6,8,16;83:22; 84:4,7 erected (1) 170:17 Eskrich (6) 134:12,19;142:18, 20;143:16;149:3 Eskrich's (2) 145:5;148:22 especially (2) 124:15;255:21 essence (1) 195:23 essentially (1) 161:4 established (2) 164:6;206:3 establishment (1) 249:11 estimate (13) 12:6;35:5,9;49:1,3,6; 119:23;120:3;140:20; 141:20,23;142:3; 148:13 et (3) 8:9;251:9;275:15 evangelize (2) 262:25;265:18 evangelizing (1) 265:17 even (8) 61:8;80:8;93:13; 118:19;122:5;135:19; 271:13;274:19 evening (1) 268:6 evenings (1) 88:7 event (4) 98:11;123:11; 223:22;265:24 events (13) 23:9;34:7,11,14,19; 127:25;158:19;188:1; 227:3;251:9;262:17; 263:12;264:7 eventually (1) 218:16 Evers (2) 233:6;261:22 everybody (4) 91:23,24;150:20; 265:11 Everyone (2) 13:4;227:21 evidence (2)	45:18;251:5 Ex (1) 65:10 exact (10) 11:24;16:6;48:25; 122:16;123:3;207:13; 226:6;245:11,17;246:9 exactly (6) 12:4;119:17;122:20; 123:22;157:22;225:6 example (5) 28:14;63:1,16; 271:10;272:9 examples (6) 96:17;97:7,9,12,14; 98:1 exceed (1) 79:11 except (1) 99:22 exchange (3) 187:4;223:23;235:23 exchanging (1) 129:14 excited (1) 266:6 excuse (5) 112:22;121:20; 189:1;199:4;275:7 executed (1) 131:18 exercise (3) 19:25;262:4;264:18 exercising (1) 265:1 Exhibit (151) 24:17,20;39:16,19; 40:3;42:22,22;50:9; 54:16,18;62:18,23; 63:4,11,13,15;64:14, 19,20;65:4,9,13,17,21, 21,22;71:21,24;93:10, 16,22;99:14,21;100:4, 7;109:7;110:4,23; 115:22,25;116:19; 133:6,9;138:3,8; 139:13,15,18;141:21; 142:9,12;149:3,8,11, 11;150:15;152:21,24; 154:23;155:5;156:2,8, 11,14;161:21,24;162:1, 9,10;163:7,10;166:1, 11;168:3,10;169:15, 18;170:6,7;171:14; 175:4,7;178:20,23; 180:4,6;183:3,5,8,9; 184:11,17;186:23; 187:1;190:12;194:11; 195:1,13,14;196:10,16; 197:16,19;202:6,21; 204:18;205:3,22; 208:18,24;209:2; 211:8;217:2;223:17,	20;226:15;230:8,13; 235:17,22;236:13,19, 22,25;238:17,21; 239:19;240:10,16; 241:2,5;247:22,24; 249:2,5;250:16; 252:24;253:2;254:18, 21;255:12,15;256:24; 257:4;258:11,13; 260:22,24;270:16; 275:19,20 exhibits (4) 63:6,25;64:7;197:8 exist (3) 35:24,25;245:18 existing (11) 75:8,23;76:16;77:2; 79:11;128:22;130:6; 131:22,24;217:20; 218:5 exists (2) 116:7;266:7 exited (4) 65:2;161:17;194:21; 226:1 expand (10) 112:23;114:5,10,19; 115:12;124:13;141:9; 147:25;151:11;164:12 expanded (2) 150:23;199:24 expansion (3) 112:24;272:16;273:2 expect (2) 24:20;44:16 expectation (2) 36:21;38:12 expected (1) 25:10 expecting (1) 24:23 expensive (1) 201:21 experience (4) 123:9;174:4;269:7, 11 explain (1) 91:5 explained (3) 56:13;145:1,2 explaining (1) 227:19 explanation (1) 227:7 explore (1) 26:11 exploring (2) 24:15;172:13 express (3) 129:13;210:10;243:8 expressed (9) 122:4;123:15;125:8; 141:2,7,14;171:8;
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188:9,17 expressing (3) 121:4,12;209:5 expressly (1) 163:2 extent (5) 101:24;131:20; 162:25;218:10;268:9 external (1) 84:25 extra (2) 107:7;263:13 eyesight (1) 116:9	fantastic (1) 144:1 far (11) 21:25;38:11;46:20; 88:24;147:16;148:5; 166:24;167:2,18; 178:16;254:1 fault (1) 272:25 favor (14) 58:10;61:24;135:17; 229:4,16;232:17; 234:16;247:9;248:5; 23;252:19;253:22; 259:19;273:4 favored (1) 258:6 features (1) 55:14 February (25) 171:15,18,21; 172:25;173:5;175:18; 176:17;177:9;180:2; 181:16,20,24;182:10; 185:23;186:2,7;190:8; 15;240:5,18,20;258:14, 17,19;259:8 feed (1) 51:18 feedback (2) 113:12;176:21 Feel (13) 19:19;137:20; 145:23;187:16,24; 188:1;189:10;192:10; 193:16;200:13;265:4; 266:18;267:4 feeling (1) 224:10 feelings (1) 248:10 felt (8) 73:2,4;86:8;91:21; 92:2;183:1;184:8; 185:2 few (5) 10:1;12:1;163:12; 180:12;249:17 field (168) 20:15,23,25;21:2,5, 11,15;22:13;23:8,9; 24:11;26:21;27:5,6,10, 13,14,17;28:4;29:21; 30:25;31:2,6;32:24; 33:4;34:5,15,23;45:22; 46:4,5;47:6,6,9;49:22; 52:14,15,19,21,22; 53:10;55:15,22;77:21; 95:20;96:21;98:13,25; 99:18;111:12;112:16, 23;114:5,11,20; 115:12;117:24;118:10, 12,21;119:15,16;	122:9;123:6,8;127:8, 14;128:23,23;129:3; 130:3,25;131:7,25; 132:7,15;133:3; 138:20;141:9;146:12, 13,25;151:12;152:11; 153:10,20;154:4,10,17, 19;156:21;157:2,15; 158:15;160:18;164:13; 165:5;167:2,24; 168:19,24;169:3; 175:25;176:2;181:10; 186:9;188:10,15; 189:25;191:3;192:5,7, 13,23,24;193:8,15; 194:3;195:25;197:13; 199:9,12,13,20;200:12, 17,17;202:1;203:19; 204:1,3,10;210:15; 217:18,20,21;218:5,21, 23;219:3,6,19;220:2, 11,24;221:2,7,12,16, 22;222:15;243:10; 249:24;250:3,4;251:7; 259:20;260:16;262:3; 264:11,24;265:11,15; 267:9;271:7,11; 273:19;274:13 fields (17) 23:19,24;24:10;27:8, 15;29:21;30:5,5;47:14, 20,24;158:19;162:20; 178:6;265:8,24;271:18 fifth (1) 200:25 figure (7) 10:17;85:12;93:14; 167:7,7,10,10 figures (2) 167:16,16 file (6) 67:23;246:5;250:23; 251:14;255:4;261:13 filed (4) 68:8;164:10;181:9; 225:15 files (2) 148:9;163:24 filing (1) 261:9 final (8) 67:13,24;68:3,14; 96:4;97:10;98:12,21 finalized (1) 56:14 finalizing (1) 56:3 finances (1) 23:15 financial (3) 132:24;263:16,20 financially (1) 199:14	find (8) 52:6;73:13;99:8; 102:15;168:18;196:19; 251:1;263:14 finding (2) 214:20;251:2 fine (15) 28:25;37:19;38:15; 66:1;77:2;105:11,25; 106:19;107:5,23; 156:11;196:4;238:1; 240:2;272:9 fined (1) 196:2 finish (4) 10:9;17:2;48:8; 246:14 finished (3) 10:11;159:4;251:20 first (59) 17:13,13;24:14;41:6; 62:25;66:13,20;79:2; 93:22;100:16;107:4; 110:23;111:14,23; 113:22;116:2,7;117:2, 17;119:13;120:18; 133:22;139:2;140:9, 23;142:14;146:2; 149:11;151:25;153:18, 23;154:2,3;162:2,14, 25;172:4,12;175:7; 180:23;183:8;186:1,2; 187:12;188:23;211:23; 214:14,23;227:2; 230:15;231:4;238:24; 240:16;241:8;248:3; 249:6,17;253:24; 275:22 Fitchburg (6) 24:6,25;25:6,26,8; 234:5,6 five (8) 16:14;25:14;41:25; 92:17;126:8;153:11; 188:21;230:10 fixtures (1) 89:7 Flanagan (1) 94:5 floor (1) 227:20 flyer (3) 139:18,21;140:23 focal (2) 124:15;126:13 focus (5) 55:5;57:9;103:14; 107:4;220:9 focusing (4) 38:18;103:21;104:7; 189:22 folks (1) 205:8	follow (9) 19:24;34:10;36:22, 23;86:9;91:24;156:19; 225:8;274:18 followed (2) 57:20;92:4 following (8) 78:15;90:5;153:14; 154:10;215:10,20; 218:20,24 follows (2) 73:22;263:7 follow-up (1) 147:11 food (1) 268:12 football (24) 27:1,8,16,18,23; 30:23;31:10,11,20,21; 112:16,23;114:5,11,20; 115:12;126:20;127:6, 13;142:23;143:18; 154:15;200:17;220:11 forced (1) 121:1 forfeit (1) 28:7 Forget (1) 258:23 Forgive (2) 73:13;132:11 Form (154) 26:13;27:20;29:5; 30:13;31:24;33:22; 35:12;36:6;37:24;38:7; 39:6,14;41:4,44,4; 45:17;46:9,12,21;48:2, 12;51:9,20;52:3,7; 55:25;56:11;57:7,15; 58:11;59:1,22;62:1; 67:7;68:10;70:6;72:25; 74:3;75:13,20;77:22; 81:1,14,23;84:1,87:1; 89:25;91:19;93:5,96:8, 15;97:18;98:16;99:4; 102:1,6,24;103:12; 104:4;105:15;106:12; 107:1;111:20;114:6, 13,21;115:5;119:5; 129:23;130:21;131:14; 132:1,16;136:4,15; 139:1;141:10;142:4, 25;145:21;146:23; 152:12;154:12;155:21; 161:1,7;164:2;166:25; 167:13;170:19;173:3; 175:20;179:21;182:1, 16,21;183:23;184:4,13, 23;185:9;188:19; 190:6;192:3,9;193:2; 195:19;203:10;204:4, 12;206:15;207:24; 209:8;210:12;211:5;
--	---	--	--	--

213:16;215:16;218:7; 14;219:9;220:5,16; 222:4,11;223:14; 224:5;225:5;227:23; 228:8;229:18;233:1, 22;234:10;237:23; 239:7;240:7;243:11; 244:14,20;247:11,18; 252:7,20;255:22; 256:17;257:23;258:9; 259:23;260:17;262:19; 265:21;272:5,20; 273:9,18 formal (2) 164:24;205:25 formally (1) 18:12 formation' (1) 112:21 forming (1) 262:23 forth (1) 185:1 forward (13) 31:14;113:4,8; 181:21;183:20;185:6; 186:8,10;192:16; 201:2,7,23;223:12 forwarding (2) 209:24;260:3 found (3) 215:9;250:22;254:25 Foundation (79) 26:14;30:7,14;31:25; 36:18;37:12;38:1,8; 40:2;43:20;44:4;46:13, 21;47:16;51:9;55:17; 56:12;57:8;58:12;59:2; 67:3;68:11,17,25;69:8; 71:15;72:18;75:14; 76:1;77:23;80:4,4; 83:16;87:1;88:16;90:1; 98:17;102:2,7;103:1, 13;104:5;114:7; 116:18;117:20,23; 118:1,7;119:3;129:24; 131:15;132:2;139:1; 146:23;154:13;162:13; 163:16;167:14;179:22; 182:2,17;199:11; 209:9,17;211:6;218:8; 219:11;220:6;227:14; 228:8;233:23;237:24; 239:8,23;252:21; 257:16,24;259:10,23 four (15) 25:14;49:3;89:11; 107:13,13;108:1,4,9; 121:16;140:22;143:12; 153:11;250:12,13; 266:1 four-year (1) 12:1	free (4) 19:19;137:20;262:4; 264:17 frequency (1) 153:9 frequently (4) 171:22;172:3;191:1, 12 Friday (2) 162:18;265:12 Friends (1) 248:1 frisbee (3) 30:24;32:13,21 front (5) 50:9;90:8;202:21; 216:15;235:5 frustrated (1) 158:23 frustrating (1) 273:25 frustrations (1) 272:24 fulfill (1) 176:8 full (1) 154:3 fund (1) 16:21 funding (1) 36:4 fundraisers (2) 262:22;264:8 further (4) 170:15;200:20; 235:11;276:9 Future (11) 73:21;101:14; 125:20;126:2;132:8, 14,25;133:2;164:15; 194:8;212:8	16;144:18;145:7,17; 149:20,21;152:10,15; 153:11,20;154:4,10,14, 16,17,18;158:13,14; 159:9;174:25;175:11, 19,21;176:7;186:13; 188:15;189:23,25; 191:6;192:2,4,7,12,22, 24;193:8,15;194:3; 198:23;199:21;200:22; 203:19;204:1,2,10; 217:20;218:5,21,22,23; 219:3,6,18;220:3,13, 21,22,25;221:3,8,12, 17,22,24;252:2; 265:19;266:7,11; 267:21,23;268:1,3; 269:2,3,7,10,19 gap (3) 16:11;254:6,8 gate (1) 71:6 gather (1) 264:8 gave (4) 48:21;64:12;264:13; 267:16 general (6) 95:22;96:5,12;98:8; 99:23;234:7 generally (6) 61:23;66:3;102:17, 18;141:6;223:4 gentleman (1) 238:24 George (1) 18:18 gets (1) 18:5 gift (6) 36:9;117:22;118:1,5; 120:2;122:8 gifts (2) 263:17,19 girls (10) 26:25,25;27:2,3,3,6; 29:23;32:4;126:22; 263:24 given (9) 26:11;64:14;92:24; 104:17;118:11;143:2; 254:7,11;274:17 gives (1) 127:6 giving (3) 11:12;176:4;192:11 glare (4) 84:18;86:4;89:6,17 glasses (1) 50:11 goals (2) 242:10,16 Godfrey (1)	8:18 goes (3) 23:11;191:7,19 golf (4) 22:13;27:4,9,14 Good (11) 8:1;11:9;14:4;52:17; 62:15;113:11,13,19; 143:20;171:6;183:24 Goodman (25) 21:1;45:21;46:3; 48:10;49:16,22; 117:20,23;118:1; 119:3;128:22;149:17; 150:7,18;151:23; 152:5,8;166:14; 168:23;169:3;174:25; 175:11;249:14,23; 259:16 Goodmans (6) 118:19;119:1,8,10, 14,22 governed (2) 212:18;237:14 government (1) 234:9 governs (1) 242:8 grab (1) 64:12 grade (20) 11:18;15:16;18:23; 19:10,11,24;20:3,6,22; 21:4,14;22:4;23:13,18; 31:17;80:12;107:12; 123:9;244:3;269:13 graduated (2) 12:4,12 grandkids (1) 266:13 grant (1) 117:19 granted (6) 144:17;175:2,12; 201:1,6;261:17 graph (1) 167:8 graphical (1) 167:8 grass (1) 122:12 Great (2) 50:2;161:13 green (5) 83:18;84:17;85:10, 23;95:17 Greenbush (4) 209:4,12,13;210:9 ground (4) 125:1;126:1;137:7; 143:25 Grounds (1) 196:21	group (3) 56:17;201:10,19 groups (6) 70:14;124:2;262:20, 21;271:18;274:6 Grove (1) 21:24 grow (3) 264:5,5,21 growth (1) 70:19 guess (7) 29:1;45:12;97:13; 148:19,20;157:24; 209:16 guessing (3) 28:15,24;148:15 guests (1) 147:24 guidance (1) 36:5 guidelines (3) 86:10,17;90:16 guy (1) 112:9
				H
				half (1) 152:3 Hall (4) 83:2,3,5,5 Halls (4) 82:11,14,18;83:13 hand (1) 238:20 handed (2) 41:11;194:25 handles (1) 178:15 handwritten (1) 65:10 HANSEN (18) 8:1,2;50:4,7;64:24; 65:6;92:19,22;109:4,9; 161:14,19;194:18,23; 230:10;270:13,18; 276:13 happen (5) 17:7;28:13;38:3; 96:21;225:1 happened (4) 102:13;178:18; 188:25;253:24 happening (1) 185:2 happens (2) 10:16;28:15 happily (1) 112:25 hard (4) 184:25;188:21; 189:13;225:10

harm (3) 219:17;220:3,13	H-e-n-a-k (1) 207:3	18:17,18;27:24;28:7; 29:3,10,20;32:19;33:9; 52:15,21;71:5;126:20, 23;127:7,18;146:12,14, 14,17,24;149:20; 220:23;265:11;268:17, 19,25	115:23;133:7;138:4; 139:14;142:10;149:9; 152:22;156:3;161:22; 163:8;166:2;168:4; 169:16;178:21;180:5; 186:24;194:12;196:11; 197:17;202:7;208:19; 223:18;226:16;230:9; 235:18;236:20;238:18; 241:3;247:23;249:3; 252:25;254:19;255:13; 256:25;258:12;260:23; 270:17	101:23;108:9;120:24; 154:5,11,20;181:10; 258:24;259:17,20
Hartlieb (10) 110:6,8,10,24;111:5, 10,15,24;113:8,11	High (105) 8:7,19,21;11:18; 12:11,14;18:24;19:2,7, 11;20:1,24,25;21:11; 23:14,18;26:7,11,20; 30:10,18;31:16;32:20; 35:6,21;36:2,15;37:4; 38:9,12,13;42:18; 47:25;51:6,7,18;52:10, 10,12,13,19;53:2;69:2; 70:5;71:7;77:15;80:7, 12,19;82:5,17;83:8,14, 25;84:13;94:24;95:6, 20;97:1;98:14,25; 99:18;102:12;103:15; 105:10,12;107:2,4,11; 108:10;112:6,10; 115:1;126:17,21; 127:19,20;133:25; 134:6;135:21;137:17; 139:19;162:16;168:24; 172:8;174:24;175:10; 179:5;196:20;197:4; 198:25;201:8,15; 205:16;210:7;243:9; 244:2,7;245:5;249:14; 259:14;272:3,8,16; 275:21	honest (1) 184:25	163:8;166:2;168:4; 169:16;178:21;180:5; 186:24;194:12;196:11; 197:17;202:7;208:19; 223:18;226:16;230:9; 235:18;236:20;238:18; 241:3;247:23;249:3; 252:25;254:19;255:13; 256:25;258:12;260:23; 270:17	inaccurate (2) 43:16;45:3
Hartlieb's (2) 110:12;113:25	headed (1) 73:17	honestly (5) 24:12;29:22;53:12; 169:22;245:20	186:24;194:12;196:11; 197:17;202:7;208:19; 223:18;226:16;230:9; 235:18;236:20;238:18; 241:3;247:23;249:3; 252:25;254:19;255:13; 256:25;258:12;260:23; 270:17	Inc (8) 8:8;162:17;244:22; 245:3,4,9,15,18
head (1) 99:10	heading (14) 25:9;82:11;86:16; 87:6;89:12;117:6; 120:7,15,18;123:23; 140:24;170:10;198:13, 16	hoped (2) 125:5,16	186:24;194:12;196:11; 197:17;202:7;208:19; 223:18;226:16;230:9; 235:18;236:20;238:18; 241:3;247:23;249:3; 252:25;254:19;255:13; 256:25;258:12;260:23; 270:17	incident (1) 131:12
heap (1) 143:5	heard (7) 10:24;56:25;141:17; 147:8;158:17;250:17; 267:20	hopeful (1) 101:7	identified (20) 30:17;58:6;62:18; 74:2,9;75:5,6,10,17; 76:8;77:20;83:2,3; 87:19;101:24;107:10; 137:10;141:20;181:10; 274:13	include (5) 24:9;59:16;160:8; 172:8;199:2
hear (4) 10:21;33:13;228:25; 252:10	hearing (11) 64:12;202:4,8;203:1; 207:10,16;212:21; 228:24;229:2;230:2; 233:20	hoping (1) 47:24	identifies (8) 51:3;73:20;74:17; 75:1;76:5;87:7;140:4; 169:23	included (4) 23:23;46:4;93:3; 176:15
hearings (1) 202:11	higher (2) 121:18,19	horrible (1) 19:17	identify (6) 31:17;76:15;77:1; 107:24;108:4;137:2	includes (2) 36:25;75:18
Heart (5) 8:8,19,22;162:16; 275:21	hindered (1) 267:4	host (12) 21:21,22;24:5;31:7; 149:19,21;174:25; 175:11,19,23;191:6; 265:7	identifying (2) 168:23;169:2	including (5) 55:12;72:9;111:6; 154:6;252:1
Heart's (1) 196:21	hindrance (1) 242:12	hosted (2) 21:25;153:11	ie (1) 113:16	Incoming (1) 15:9
Heather (3) 149:12;235:23; 236:14	hindrances (1) 242:17	hour (1) 156:5	immediate (1) 206:2	incorporate (2) 149:18;151:10
Heck (4) 211:24;229:12,21,22	hire (1) 15:23	hours (2) 176:1;230:10	immediately (1) 200:5	incorporated (3) 87:15;151:14;238:13
height (1) 183:15	hired (8) 13:13,18;15:3,7,11; 16:9,12;90:24	housing (1) 90:9	impact (8) 79:10;170:15;213:6; 217:10,11,18;251:3; 256:14	incorrectly (1) 136:21
held (17) 8:6;17:9;21:9,19; 33:9;70:14;71:20; 123:12,21;128:7,7; 141:12;147:2;176:23; 207:16;270:6,6	historical (2) 57:4;191:9	houssings (1) 89:16	impacts (7) 89:22;91:3;212:14; 237:10;251:6,8,25	increase (11) 47:25;48:9;51:24,25; 152:15,18;154:4,9,18; 176:2;217:24
help (9) 36:9;37:20;76:25; 138:2;143:9;199:14; 200:1;254:3;264:1	history (1) 57:12	Huber (1) 60:22	implementations (1) 88:11	increased (3) 48:11;122:9;153:9
helpful (2) 10:8;224:24	hockey (1) 27:2	Huber's (1) 61:6	import (1) 51:16	increasing (1) 53:3
helping (1) 176:8	hold (18) 13:11;21:16;47:8; 101:15,21;102:20; 107:18;123:18;124:14; 142:22;143:7,18; 176:5;192:2;204:1,2; 264:6,7	Huh-uh (1) 228:1	important (3) 71:10;149:25;254:5	increasingly (1) 242:25
helps (2) 76:15;107:17	holding (1) 152:10	humor (1) 144:2	importantly (1) 262:15	Inc's (1) 275:21
Henak (3) 207:3;222:19,25	holds (1) 177:25	Hursh (3) 100:17,24;101:4	improperly (5) 273:16;274:12; 275:5,7,15	indeed (1) 113:8
	home (27)	hurt (2) 263:20,21	improvement (5) 74:17;131:23; 217:20,23;249:11	Independent (2) 44:12;45:4
		I	improvements (19) 53:21;74:6;75:4,5, 11,16;77:19,20;81:19;	indicate (8) 143:4;167:17; 176:11;184:16;191:4; 231:9;243:24;252:11
		ID (1) 212:17		indicated (14) 16:18;38:25;47:5; 48:14;55:11;60:17,24; 61:13;158:20;194:2; 206:25;251:23;274:11, 12
		idea (12) 16:11;77:5;93:8; 124:3;132:3;139:8; 141:18;209:10;256:19; 259:3;260:6;275:9		indicates (17) 54:20;72:9;74:23; 84:15;87:25;100:17; 101:2;134:22;145:6, 10;152:1;157:13; 159:8;164:4;196:19; 236:7;250:21
		ideally (1) 147:22		indicating (4)
		identification (46) 24:18;39:17;40:4; 54:17;65:5;71:22; 93:11;100:5;109:8;		

50:22;159:24; 254:25;257:19 indication (2) 166:17;179:4 individual (2) 39:4;275:1 individuals (3) 69:10;111:10;133:20 indoor (1) 77:10 indoors (1) 121:1 industry (3) 13:20,23;14:1 inform (1) 191:20 informal (1) 160:23 information (24) 44:12,17;57:4; 102:16;150:7;174:16, 18;191:8;204:5; 212:14,23;213:15; 229:14;230:2;233:3,5, 15;237:10,20;241:7; 249:23;254:7,14;276:6 informing (1) 239:2 Ingrisano (237) 8:17,17;17:2,5; 26:13;27:20;29:4;30:6, 13;31:24;33:22;35:12; 36:6,17;37:11,24;38:7; 39:6,14,25;41:4,19,22; 42:2;43:19;44:3;45:17; 46:9,15,18,22;47:3,15; 48:2,5,12,50:2,15;51:8, 20;52:3;55:16,25; 56:11;57:7,15;58:11; 59:1,10,22;62:1,5,14, 22;63:8,12,15,19,22; 64:1,3,8,16;67:2,7; 68:10,16,24;69:7;70:6; 71:14;72:17,25;74:3; 75:13,20,25;77:22; 78:4,8,11;80:3;81:1,14, 23;83:15;84:1;86:25; 88:15;89:25;91:19; 92:16;93:5,19,21;96:8, 15;97:18;98:16;99:4; 102:1,6,24;103:12; 104:4;105:15;106:12; 107:1;108:24;109:2; 110:1;111:20;114:6, 13,21;115:5;116:17, 23;119:5;129:23; 130:21;131:14;132:1, 16;136:4,15;138:25; 141:10;142:4,25; 145:1,21;146:22; 148:19;152:12;154:12; 155:20;156:4,10; 161:1,7,13;162:12;	163:15;164:2;166:25; 167:13;168:7;170:19; 173:3;174:11;175:20; 179:21;182:1,16,21; 183:23;184:4,13,23; 185:9;188:19;190:6; 192:3,9;193:2;194:13; 195:11,19;196:12,14; 199:10;203:10;204:4, 12,16;206:15;207:24; 209:8;210:12;211:5; 213:16;215:16;218:7, 14;219:9;220:5,16; 222:4,11;223:14; 224:5;225:5;226:17; 227:13,23;228:7,14; 229:18;230:6,11; 233:1,22;234:10; 237:23;239:7,22; 240:7,11;241:24; 243:11;244:14,20; 246:14;247:11,19; 248:16;251:19;252:7, 20;255:22;256:17; 257:15,21,23;258:9; 259:9,22;260:17; 265:21;269:5;272:5, 20;273:9,12,18;276:11 initial (3) 119:11,22;153:19 initially (3) 137:15;192:20; 206:18 inlets (1) 79:5 install (8) 58:25;59:9;132:8; 182:11;185:6;186:8, 10;191:2 installation (4) 239:11;249:13; 250:12;255:2 installing (1) 172:13 instance (2) 128:13;213:20 instances (2) 102:22;164:17 instead (3) 212:8;225:3;245:1 Institutional (1) 131:22 institutions (2) 131:21;242:9 institution's (1) 191:2 instructed (2) 172:16;218:12 Insurance (1) 17:22 intended (4) 96:19,20;132:14; 191:10	intending (1) 125:21 intends (2) 74:7;191:5 intensity (1) 153:9 intention (4) 51:21;125:14;161:9; 177:20 interacted (1) 209:13 interest (3) 171:9;191:2;195:9 interior (2) 81:7;89:2 internal (8) 43:6;50:10;84:25; 88:4,13;99:8;155:6; 164:18 internet (3) 116:10;120:12,15 interpretation (8) 130:5;158:24;180:1; 183:14,22;192:15; 198:9;243:7 interpreted (1) 163:1 Interrogatories (1) 275:23 interrupted (2) 246:18,19 Interruption (1) 238:7 interviewed (2) 117:12;121:5 into (18) 89:18;90:8;91:18; 92:13,15;104:9; 115:12;124:4;125:5; 127:16;151:14;219:23; 238:14;244:6,19; 245:13;264:2;267:2 introduced (2) 62:24;64:20 invest (1) 171:2 investigated (2) 32:20;33:3 investigation (2) 115:10,14 inviting (1) 205:15 involve (3) 77:19;236:22;257:1 involved (22) 28:22;36:12;53:24; 55:13;56:22;61:18,20; 67:5,8;69:11,21;81:20; 86:5;91:12;94:11,19, 20;103:3,5;143:9; 169:24;171:25 involvement (4) 57:5;67:11;90:13;	118:24 involving (2) 18:1;223:11 Iowa (4) 11:16,23;12:10; 14:13 issuance (2) 66:16;191:20 issue (19) 65:17;79:16;80:23; 81:12;91:13;114:9; 135:3;147:11;160:16; 165:10;177:1;187:18; 189:3;200:21;204:9; 211:1;217:19;221:8; 256:8 issued (3) 190:9,19;195:24 issues (15) 56:17;70:24;71:2,5; 73:3,4;78:17;79:22; 160:24;187:25;188:21, 22;220:8;229:13; 266:20 item (10) 74:17;76:17;211:17, 20,23;212:11;214:4,15, 21;236:10 items (8) 76:5;77:18;99:1; 172:9;216:6;217:16; 218:3;233:17	Jon (4) 8:2;209:17,21; 210:24 Jonathan (1) 8:17 Journal (3) 116:3,14,20 Jr (1) 68:1 Judd (4) 17:11,15,16,18 Judge (2) 17:12,13 July (12) 13:14;15:6,23; 145:16;148:23;202:15; 203:1;204:21;205:10, 14;221:22;222:8 jump (1) 247:1 June (5) 17:24;18:16;116:4, 14;196:24 juridic (1) 35:23 JV (4) 29:5;263:5,6;266:22
K				
Kahn (1) 8:18 Katherine (2) 162:3;163:14 Kathleen (2) 94:5;95:1 Katie (3) 173:22;174:9;223:24 keep (7) 38:17;42:2;90:4,10; 91:21;161:3;189:14 keeping (1) 91:6 kept (1) 225:10 Kevin (1) 18:9 kicked (1) 253:19 kid (1) 267:7 kids (10) 37:20;51:18;71:5; 262:8;263:10,11; 265:24;266:4,13; 268:14 killed (1) 62:13 kind (13) 11:10;12:16;13:16; 15:15;37:2;80:16; 121:8;141:19;143:21; 150:20;178:15;196:3;				
J				
jam (1) 144:19 January (8) 72:7;168:15;246:8, 13,22;248:1;256:2; 257:6 Jean-Louis (11) 8:24;65:2;76:21; 85:1;99:9;161:17; 170:23;194:21;203:21; 226:1;243:2 Jen (2) 258:14;260:3 Jerry (1) 13:3 Jim (7) 110:5,24;111:24; 113:3;209:10,25;210:2 job (1) 104:6 jogs (2) 24:21;229:9 John (3) 180:8;217:4;238:25 joining (1) 16:5 joke (2) 144:21;145:25				

222:18 King (1) 68:1 Kneer (2) 238:25;239:16 knew (6) 52:5;57:18;86:9; 97:7;144:22;254:4 knowing (2) 28:23;144:3 knowledge (12) 26:9;28:17;34:4; 70:1;122:21;178:17; 179:15;180:13;203:4; 213:20;245:19;257:18 Komen (1) 263:25 Krantz (5) 230:16,18;231:1,9, 12	later (8) 133:2,4;163:12; 213:12;219:8,20; 235:2,11 launches (1) 117:3 law (1) 14:17 Lawson (1) 101:1 lay (2) 132:25;209:16 layout (1) 74:20 lead (2) 274:4,18 leadership (1) 51:25 League (2) 20:21;23:11 leaning (1) 229:25 learn (1) 173:9 learned (4) 37:17;104:17; 172:20;173:6 learning (4) 25:16,24;37:14; 104:8 least (53) 40:25;42:13;43:1; 44:20;46:7;51:22; 54:19;55:10;56:8;57:2, 11;62:20;76:8;84:6; 86:12;88:18;91:10; 92:11;110:4;116:2; 125:7,19;134:22; 139:8;145:16;148:22; 155:11,17;159:8; 160:22;162:24;164:14; 171:8;179:3;183:18, 21;184:19;186:12; 188:8,17;197:23; 203:6;205:21;215:11; 218:2,10;219:5; 223:24;230:15;253:12; 256:20;257:9;260:14 leave (2) 13:23;269:16 leaving (2) 143:11,22 led (2) 48:10;174:18 Lee (8) 173:22;174:9; 196:17;197:3;203:8, 12;204:20;205:15 left (4) 64:3;116:14;211:12; 248:18 legal (12) 102:25;103:13;	163:3;164:7;165:10, 15,20;173:13,15; 182:17;204:5;219:10 Legistar (4) 211:10;217:16; 249:6,18 lengthy (1) 264:13 less (3) 93:2;106:13;199:16 letter (73) 66:9;133:17,19,22; 134:8,19,22;149:12,15; 151:21;152:1;162:2,8; 163:12,18;164:1,4; 171:14,17,17,21;172:1; 173:8;178:24;179:1,3, 6;180:7;182:23; 183:19;184:1,6,19; 186:6;189:17;190:8, 14,15,25;191:11,20,25; 192:11;193:6;196:16; 204:19,23,24;205:1,5, 6,8,10,14,21,25; 240:16,19;241:5,7,9, 12,21,22,25;242:7,18; 243:19,24;254:21,24; 255:7,15 letters (5) 182:3;185:1;191:4; 193:4;258:1 level (2) 79:12;221:14 levels (3) 166:18,23;167:11 liaison (38) 56:17;59:24;60:3,4, 6;70:4,23;71:10;78:16, 20;79:17,20;80:2,9,11; 81:18;90:3,14,16,24; 91:11;92:9,25;98:4,7; 103:4;134:10,15; 135:1;137:24;138:9, 23;139:9;140:1,13; 141:7,13;152:2 life (1) 37:14 lifelong (1) 233:25 light (15) 86:4;88:4,14;92:13; 95:22;96:5,12;98:8; 99:23;176:1,2;183:15; 189:6;250:12,13 lighted (1) 251:7 lighting (59) 81:8,11,20;83:18; 84:12;85:9;86:21,23; 87:20;88:10;89:2,13, 15,22;90:4;91:4,13,16, 17;92:8,11;132:9; 138:19;144:7;151:10;	154:25;172:6,18,20; 173:2,6,10,19;174:2; 175:1,12,17;176:17; 180:2;181:8,17;182:5, 24;184:21;185:23; 191:21;239:2,6,11,21; 240:3,12,17,21,22; 249:25;250:3;262:3; 273:3 lights (108) 52:14,22;58:6,25; 59:8,16,18,20;60:1,13, 19,25;61:11;84:15,16, 16;89:16;90:4,6,93:4; 110:18;111:12;124:10, 24,25;125:14,17,20,22; 132:15;141:3;142:23; 143:8,10,19;145:11,19; 147:13;148:24;149:4; 150:17,23;166:7,13; 169:10,20;176:11,22; 177:5,10,16,21;178:6, 10;179:10,20;180:17, 18,25;181:9,24; 182:11;183:20;184:3; 185:5,6,11;186:8,10; 187:25;189:3;191:3,5; 193:24;201:2,7,10,23; 219:23;220:11,18,20; 225:8,9;235:6;243:10; 247:15;249:13;251:2; 252:3;255:2;256:14, 21;257:14;258:2,8; 260:15;263:18,19; 264:25;265:12;267:5, 8;271:13,17;273:11, 22;274:19 likely (3) 93:2;113:4;120:1 limit (3) 188:2;251:8;252:2 limited (5) 98:18;149:19; 191:23;265:4;271:8 limits (3) 157:15;191:14;251:9 line (10) 48:8;91:8,22;95:16; 138:9,12;187:9,9; 189:5;259:13 list (7) 26:23;45:15;73:22; 78:5;96:20;155:13; 168:23 listed (5) 67:23;68:2;77:20; 169:6;203:9 listen (1) 30:16 listening (1) 141:12 lists (1) 197:23	little (7) 13:1,8;16:19;71:7; 76:13;119:18;209:16 live (6) 18:14;35:6;36:20; 234:5;262:8;270:8 lived (1) 128:11 lives (1) 109:21 LL-100 (1) 67:25 lobbied (1) 62:4 lobby (1) 231:18 local (1) 152:3 locating (1) 79:8 location (2) 128:8,17 locations (2) 265:20;266:20 logo (1) 53:11 long (3) 13:6;92:4;127:8 longer (4) 96:6;104:22;206:25; 242:9 look (26) 25:8;39:22;41:1,7; 48:24;49:18;62:20; 63:1;77:3;83:1;93:17; 95:8;100:13;107:14; 108:14;116:13;138:15; 148:9;151:5;153:7; 161:24;171:7;190:8, 12;214:4;260:25 looked (4) 144:17;203:3;240:5, 8 looking (20) 63:21;66:22;67:18; 96:9;99:9;102:4; 111:10;124:24;140:1; 180:22;190:14;200:1; 212:11;214:3,14; 236:25;238:8;243:19; 258:20;263:14 looks (3) 66:2;160:15;163:17 loop (1) 193:23 Lorman (4) 209:10,25;210:2,3 lot (23) 47:8,19;75:2;89:12; 115:7;125:12;147:8; 152:10,13;189:7; 199:12;217:25;220:7; 254:2;262:18;263:2,3,
L Lack (2) 103:1;245:10 lacrosse (10) 22:19,20;27:2,9,16; 29:2,9,14;30:23; 154:17 Lacy (2) 25:17,25 LaFollette (1) 199:6 Lake (5) 84:20;85:20;86:1,5, 14 land (4) 118:16,18;150:3; 242:8 Landgraf (2) 187:5,7 landlocked (1) 264:10 landscaping (3) 55:14,22;95:17 language (12) 56:13;71:13;95:25; 96:5,11,14;97:3;98:12, 19,24,24;187:22 largely (1) 164:13 last (26) 10:21;40:11;42:19, 20;43:10;55:5,18; 95:16;101:6;113:3; 162:24;168:22;175:6, 9;178:13;180:15,24; 183:1;189:17;217:9; 231:10;232:10;243:19; 248:4;275:19,25 late (6) 71:6;115:11;167:22, 25;178:1;246:15				

13;264:3;265:9; 268:14;273:2;275:10 lots (1) 175:21 love (2) 31:1,4 lower (2) 88:7;258:20 lunch (2) 109:1,6 Luther (1) 68:1	194:16;255:24;262:19; 266:10;271:18 map (11) 76:4,9,12,17;77:4; 85:13,14,17,18;108:14, 16 March (15) 13:10,12,13,18;15:6, 23;16:9;133:10; 178:25;180:9;182:10; 187:5;188:6;250:7; 276:3 margin (1) 253:7 mark (7) 62:13;107:23;187:5, 7,13;211:8;235:15 marked (93) 24:17,19;39:16,18; 40:3;42:21;54:16; 62:17;64:7,10;65:4,9; 71:21,23;73:14;93:10, 16;100:4,6;109:7; 110:3;115:22,24; 133:6,8;138:3,7; 139:13,17;142:9,11; 149:8,10;152:21,23; 156:2,13;161:21,23; 163:7,9;166:1;168:3,9; 169:15,17;171:13; 178:20,22;180:4; 186:23,25;194:11; 195:13;196:10,15; 197:16,18;202:6; 204:17;205:4;208:18, 23;217:1;223:17,19; 226:15,19;230:8,12; 235:17,21;236:19,21; 238:17,21;241:2,4; 242:7;247:22;249:2,4, 20;252:24;253:1; 254:18,20;255:12,14; 256:24;258:11;260:22; 270:16 marketing (2) 11:17;12:2 marking (1) 107:19 marks (1) 143:12 Marshall (2) 83:3,5 Martin (1) 68:1 Mary (1) 242:1 master (233) 54:3,4,7,13;57:10; 60:15;61:2,21;62:19; 65:23;66:15,25;67:5, 12,21;68:3,6,8,14,21; 69:4,12,21,25;70:13; 71:13,18,19;72:11,16,	23;73:12;74:2,8;75:6, 12,18;79:23;82:3; 83:12;86:13;87:9,13, 15;88:20,22,23,24; 89:20;90:14,15;93:3; 94:9,11,20,21,23;95:4, 25;96:4,6;97:10,16; 98:1,3,12,21,23,24; 100:20;101:20,25; 102:15,19;103:6,7; 104:9,21;105:5,9,17, 19;106:25;107:10; 108:11,12;112:7,10,14, 21;114:4,12,23; 115:13;129:6,18,22; 130:7,10,15,20,24; 133:9;134:1;135:8,13; 136:3,13;137:9,11; 142:21;143:17;144:10; 145:13,19;148:24; 149:4,23;150:8,16; 151:10,15;153:12; 155:2;156:22;157:2, 10,14;159:11,25; 160:24;161:6;162:21; 163:1;164:12;165:6; 166:7;172:8,17,22; 173:1,11,19;174:2,5, 20;176:22;180:20; 181:1,1;182:4,25; 184:22;186:15,20; 187:17;188:16,18; 190:2,4,4,10,20; 191:14,23;192:25; 193:1;204:2,11; 205:19;206:3,8,11,13; 207:4,9,18,22;208:7, 15;209:6;211:21; 212:7,15,24;213:6,22, 24;215:5,25;218:17, 25;219:8,20;221:4; 222:21;223:6,13; 224:9,18;225:3,21; 226:5;227:6,11; 228:21;234:17,21; 235:2,7,12;236:3,15; 237:12;238:5,10,14; 239:12;242:7;243:21; 244:1,2,11,18;245:21; 246:7,21;247:4,9; 248:6,21,24;249:10 MATC (3) 12:2,9,11 material (1) 275:10 materials (2) 121:10;249:18 Matt (18) 146:3;147:15; 162:10;163:13;171:14; 173:22;174:9;182:23; 187:10,14;188:5; 189:20;190:1;196:16;	197:3;203:8;204:20; 205:15 matter (6) 8:7;153:19;161:4; 179:16;229:17;255:20 matters (2) 137:16;195:18 Matthew (3) 8:25;146:4;156:15 May (32) 8:5;26:18;40:19; 63:9;70:24;94:19; 112:1,1,16;137:23; 138:10,22;139:7,8,25; 140:13,20;141:15; 163:1,4;178:18;188:2; 196:17,23;204:20; 229:8;242:20;250:18; 253:3;254:22;269:25; 270:8 maybe (2) 71:5;128:12 mayor (18) 206:1,7,18,24;207:5; 224:12,17,24;244:11, 16;273:7,15,17,20; 274:10,14;275:4,17 May's (1) 205:14 mean (23) 35:20;36:20;73:3; 90:20;91:5,22;97:24; 104:13;106:14;119:17; 120:1;122:18;174:14; 175:21;199:23;231:13; 232:11;247:1;258:2; 265:4,11;266:11;271:2 meaning (1) 91:6 means (1) 182:14 meant (8) 84:25;86:8;90:5; 147:16;187:20;238:19; 243:5;251:13 measured (1) 166:23 measurements (2) 167:9,17 measures (1) 251:8 mechanical (7) 79:3,6,15,21;83:22; 84:4,6 medication (1) 11:10 meet (13) 21:15,17;36:16; 80:21;123:8,18;125:2; 175:23;220:18,22; 221:14;234:12;255:3 meeting (70) 55:11;60:5;134:11;	138:10,16;139:5,6; 140:12;141:16;148:17; 153:2;159:18,22; 176:3;188:5;189:15; 196:24;197:11,20; 198:4;201:16,17,22; 202:15;203:14,23; 208:9;210:11;211:11, 14;212:5,8,22;213:10, 12;214:7;215:4,7,9,10, 13,15,21,23;216:2; 225:14;226:12;227:17, 21;228:5,9,13,19,20; 229:6,17;232:9,16,23; 234:18,22,22;236:4,9, 16;237:21;246:1; 252:14,17;256:8 meetings (24) 60:4;61:19;67:16; 70:11,14,17,21;72:22; 79:19;80:10,11;88:17; 92:9;101:15,21; 102:11,20;103:9; 119:2;141:12;201:19; 207:14;235:2;255:24 meets (1) 21:7 member (4) 103:4;110:18,20; 209:22 members (21) 60:2,23;69:5;90:3; 100:18;111:6;198:9; 212:13,23;213:5,14; 218:11;229:2,25; 232:19;233:13,14; 237:9;251:23;252:10; 256:11 memo (3) 218:11;237:3,16 memorandum (1) 217:3 Memorial (1) 199:3 memory (2) 24:22;229:10 mention (5) 31:5;39:12;40:8; 42:15;137:21 mentioned (13) 14:13;28:19;32:13; 53:6;90:3;132:5,5; 140:6;150:24;180:25; 267:20;270:20;272:9 mentions (1) 39:23 mess (1) 188:24 message (1) 156:19 met (6) 80:16;100:17;171:4; 189:3;250:22;251:2
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MGO (2) 181:2;191:21	mitigation (1) 251:7	move (11) 18:14;108:22; 144:24;146:1;192:16; 193:25;195:10;201:2; 7:235:1;247:16	need (16) 10:22;11:7;99:11; 104:1;105:12;106:6; 128:2,6,16;129:11; 159:10;174:1;188:2; 200:7;268:21;269:21	141:2,13;147:18; 150:25;151:17;152:3; 16:155:17;160:10,25; 169:11,19;171:1,8; 187:21;207:21;233:14; 248:19;256:13;258:1, 24;260:20;261:20; 272:24
Michael (4) 8:12;112:2;162:18; 205:14	modern (1) 154:7	moved (3) 186:10;221:3;227:5	needed (18) 54:12;72:23;102:20; 106:11;121:20,21; 145:7;154:5;159:25; 161:5;172:16;186:20; 190:5;199:13;200:2; 206:12;221:14;242:13	neither (2) 180:18,25
middle (6) 76:11;120:17; 142:17;150:6;262:14; 270:2	modified (2) 62:24;187:18	moving (3) 185:6;186:7;201:23	needs (2) 18:6;29:7	nervous (1) 13:1
Middleton (9) 28:5;126:21;127:12; 128:1;199:3,8,8,19; 200:11	moment (6) 64:23;95:12;99:11; 126:12;154:23;161:25	much (13) 37:16;90:19;102:12; 104:23;105:1;111:25; 119:21;121:20,21; 140:20;264:12;268:6; 271:15	negative (4) 82:20;251:3,6; 256:14	new (30) 18:5,7;32:15;40:19; 57:9;58:7;61:3,3;77:7; 87:24;103:17;104:6; 117:3,18;127:8,15; 128:23;129:3,15; 130:6;132:7;137:25; 138:24;140:10;149:18; 183:14;187:19;188:10; 199:15;200:4
mid-Eighties (1) 12:7	moments (1) 13:4	muddy (1) 122:12	needing (1) 262:21	newly (1) 235:5
midway (3) 57:22;170:11;198:16	Monday (2) 211:11;227:4	multiple (7) 28:1;69:19;193:17; 19:202:10;230:19; 234:25	negotiating (1) 79:21	newspaper (2) 24:25;116:8
might (12) 14:4;16:20;81:24; 96:21;116:10;132:11; 137:6;139:7;155:18; 257:19;266:21;270:12	money (9) 12:19;47:19,23; 118:7,11;128:22; 135:22;199:16;263:17	Municipal (2) 67:25;234:13	neighbor (2) 81:22;209:22	next (26) 10:12;56:2,6,8; 73:25;81:6;87:17;89:1; 94:14;112:5,5,13; 121:15,15;123:4,10; 124:8;126:19;134:8; 147:20;201:12;205:24; 215:6;216:1;236:4; 252:8
Mike (5) 113:4,13;148:19; 187:14;204:20	monitor (1) 56:17	municipality (2) 14:22;15:1	neighborhood (82) 54:13,22;58:23;59:6, 15;60:7,16;70:4,11,12, 17,22,23;71:12,17; 72:15,21,24;78:16; 79:7,8,12,17;80:2; 81:18;89:18,23;91:18; 92:8,13,15;93:2;98:4,6, 7;101:16,22;102:21; 103:4,9;118:15; 123:24;124:2,9; 125:13;134:15,25; 135:1,2;137:24;138:9, 23;139:9,25;140:13, 24;141:7;143:23; 159:18,21;160:9; 171:1;189:2;197:12; 207:21;208:12,12,13; 209:4,11,13,23;210:9; 238:4,13;258:5;262:9; 271:24,25;272:12,15; 273:1	night (79) 30:12,22,25,25;31:1, 4,10,21,22;32:5,7,11, 17,18,22,25;33:5,7; 34:5;52:24;128:5,6,16; 142:23;143:7,18; 144:15;146:11,17; 147:5,7,11,12;149:20, 21;174:25;175:11,19, 21;176:7;177:25; 178:2,9;180:18; 186:13;187:18;188:10, 15;189:23,25;191:6; 192:2,7,12,22,24; 193:8,15;194:3; 220:21;231:10;232:10; 264:2;265:12,23; 266:2,10;267:23; 268:3,8,10,15,22; 269:1,7,10,19;270:2,5
million (8) 46:3;47:11;48:10; 117:3,19,22;118:25; 142:7	monitoring (1) 70:18	Munson (12) 160:1,2,5,13;162:11, 19;168:12,18;173:15, 17,22;177:16	negatively (1) 242:21	
mind (3) 42:7;142:15;187:19	Monona (1) 21:24	Munson's (2) 173:25;174:4	neighborhood's (1) 57:4	
mine (2) 116:9;152:25	Monroe (6) 54:22;55:12;76:12, 19;167:2;249:7	must (6) 10:5;36:15;38:21,25; 181:2;228:4	neighbors (57) 54:12;55:11,23; 56:22;57:13;61:4; 70:18,25;71:11;73:6; 80:24;81:4,5,12,21; 88:12;89:21;91:3,11, 15;92:11,25;104:25; 105:2;106:15;118:3; 131:4,9;134:24; 135:15,18,24;136:8;	
minimize (5) 84:18;89:22;91:3,6; 188:22	months (2) 140:22;255:21	myself (2) 13:17;105:21		
minimum (1) 181:23	moot (1) 164:14	N		
Minnaert (1) 127:7	more (42) 16:23;19:19;22:14; 34:22;37:16;47:8;52:6, 8;112:9;119:21; 124:22,23;125:5,12; 144:21;147:8,20; 149:24;150:10;152:10, 17;168:5;176:1; 199:12,16;212:14,23; 213:14;229:13;234:2; 237:10,20;242:25; 244:7;253:20,23; 254:8;262:15;265:23; 268:6;271:15,18	name (7) 8:2;12:25;17:13; 19:18;26:24;115:20; 245:7		
minor (10) 142:21;143:11,17; 144:3,4,5,12,20,22; 145:11	morning (2) 8:1;171:5	named (1) 238:25		
minute (4) 55:6;93:17;223:20; 260:25	most (11) 20:24;29:11;32:2; 57:9;90:20;94:25; 103:18;120:1;188:20; 265:9,11	names (3) 19:18;27:11;209:14		
minutes (14) 54:21;58:6;60:9,10; 134:11,15;198:2,3,4,8, 10;200:16;230:10; 248:18	motion (6) 211:24;214:15,23; 226:8;227:10,20	narrow (1) 98:12		
Mischaracterizes (11) 52:4;74:4;77:23; 84:2;93:6;104:5; 111:21;143:1;145:22; 184:5,14	mostly (1) 71:4	Nathan (6) 173:24;174:10; 177:16;178:24;203:8; 254:13		
mission (13) 36:23;37:13;38:2; 41:3,14,18;42:9,11,14; 175:23;176:3,8;264:19	motions (1) 227:19	national (2) 121:18,19		
mitigate (1) 170:15	Motorized (1) 88:1	natural (1) 122:12		
		nature (4) 14:15;16:1,15;244:4		
		necessarily (2) 24:20;268:12		
		necessary (2) 106:3;173:20		

13:8;201:12 Nineties (5) 12:7,8;54:8,14;61:11 Noel (2) 8:20;203:8 noise (22) 79:5,6,11,15,22; 80:23;81:3,20;83:19, 22;84:4,7;166:18; 167:9,11;170:11,16,16; 189:5,5;251:8,25 nonconforming (5) 163:3;164:7;165:10, 15,20 None (2) 42:16;77:19 nonprofits (4) 262:20;270:21,25; 271:6 nonresponsive (2) 144:25;247:17 nor (3) 180:18,25;203:4 Nos (1) 235:17 note (2) 62:23;63:2 noted (1) 120:23 notes (4) 51:2,5;148:9;251:22 notice (6) 164:24;197:6;227:7, 22;228:2,4 notices (10) 160:16;195:16,21, 23;196:7,7,22;197:7, 10;203:2 notifying (1) 261:8 noting (2) 51:12;64:18 November (10) 68:15;150:13;162:2; 163:12;165:3;195:4; 214:1,1;236:16;243:18 number (45) 30:17;35:8;43:18; 58:17;65:24;66:24; 74:17;75:23;76:8,18; 77:6;78:7;85:21;86:2; 87:13;95:10,19;105:4; 107:9;108:4;117:14; 120:20;136:22;141:25; 149:19;153:7,19; 163:22,23;188:1; 207:20,25;208:5; 211:17;214:4;229:12; 242:2,4;248:19;252:2, 17,18,22;272:1;273:6 numbered (5) 41:12,17;67:19; 87:18;98:20	numbering (1) 99:11 numbers (12) 49:18;58:5;63:21; 66:3;73:20;95:9;108:2; 122:9;133:14;155:7; 163:21;262:16 numerous (1) 70:10 nuns (1) 14:1 O object (2) 29:4;40:1 objected (2) 98:8;240:12 objecting (1) 259:11 Objection (188) 26:13;27:20;30:6,13; 31:24;33:22;35:12; 36:6,17;37:11,24,25; 38:7,8;39:6,14;41:4; 43:19;44:3;45:17;46:9, 16,20,23,25;47:15; 48:2,12;51:8,20;52:3; 55:16,25;56:11;57:7, 15;58:11;59:1,22;62:1, 5;67:2,7;68:10,16,24; 69:7;70:6;71:14;72:17, 25;74:3;75:13,20,25; 77:22;78:4;80:3,4; 81:1,14,23;83:15;84:1; 86:25;88:15;89:25; 91:19;93:5;96:8,15; 97:18;98:16;99:4; 102:1,6,24;103:12; 104:4;105:15;106:12; 107:1;111:20;114:6, 13,21;115:5;119:5; 129:23;130:21;131:14; 132:1,16;136:4,15; 138:25;141:10;142:4, 25;143:2;145:4,21; 146:22;152:12;154:12; 155:20,21;161:1,7; 162:12;163:15;164:2; 166:25;167:13;170:19; 173:3;175:20;179:21; 182:1,16,21;183:23,24; 184:4,13,23;185:9; 188:19;190:6;192:3,9; 193:2;195:19;199:10; 203:10;204:4,12; 206:15;207:24;209:8; 210:12;211:5;213:16; 215:16;218:7,14; 219:9;220:5,16;222:4, 11;223:14;224:5; 225:5;227:13,23; 228:7;229:18;233:1,	22:234:10;237:23; 239:7,22;240:7; 243:11;244:14,20; 247:11,18;251:19; 252:7,20;255:22; 256:17;257:15,21,23; 258:9;259:9,22; 260:17;265:21;272:5, 20;273:9,12,18 objections (1) 59:10 objectives (2) 242:10,17 obtain (2) 141:19;169:10 obviously (6) 119:18;144:12; 146:15;178:2;200:16; 260:6 occasion (2) 14:25;234:12 occasionally (2) 81:3,5 Occupancy (1) 89:5 occur (5) 119:11;131:12; 178:5,10;231:1 occurred (12) 28:10,12,13;55:23; 57:12;60:8;90:12; 118:16;154:20;165:19; 227:4;271:13 occurring (2) 166:23;249:12 October (36) 42:23;43:23;48:15; 100:9;110:6,25;111:7; 142:22;143:6,18; 146:11;147:3,12; 156:16;159:2,18,21; 160:18;162:18;220:14; 221:19,23;222:10; 225:18;226:5;229:5, 17;234:18,22,22,25; 236:1,4,9,11;237:4 off (27) 50:4;63:13;64:4,22, 24;87:12;92:19;99:10; 109:4;120:21;123:12, 21;127:17;142:21; 143:16;144:4,8; 145:11;161:14;178:6; 194:18;221:24;230:21; 253:25;264:12;270:13; 276:13 offer (3) 38:11;200:17;271:9 offering (2) 199:20;200:11 offerings (1) 152:5 office (1)	229:15 offices (1) 89:6 official (3) 109:17;196:6,22 officially (2) 72:11;90:20 Officials (1) 117:7 often (3) 21:1;28:10;241:15 old (4) 13:17;72:4;112:14; 129:2 on- (2) 133:23;134:5 on-campus (1) 134:2 once (2) 19:19;253:24 one (95) 11:8;16:23;21:8,8, 24;22:1;25:13;28:16, 16,19;31:6;34:22; 41:22;48:3,6;50:22; 51:5;52:9,23;53:5; 54:6;59:19;62:13; 64:12;72:4;78:12,17; 87:18;94:1;95:12; 100:9;103:7;104:2,21; 107:22;108:15,15; 115:8;120:21,23; 123:21;126:12;137:1; 138:13;142:14;150:10; 165:23;168:6;182:9; 184:15;186:2,3; 188:23;193:10,11; 198:9;202:10;205:7; 216:9;220:1;232:2,22; 235:19,20;238:9; 240:1,5;241:19; 242:25;244:2,4,12,22; 245:1;252:19;253:7, 14;254:11;262:12; 263:6,24;264:9; 265:23,23;266:2,2,22, 23,24;269:9;270:20; 274:3,5,6;275:19 ones (11) 20:8;22:12,14;65:20; 108:6;140:6;147:21; 234:5,6;269:6;272:7 ongoing (1) 217:18 only (15) 22:1,14;28:15;38:9; 47:1;94:24;99:1; 107:22;116:24;118:2; 123:8;147:21;153:10; 158:13;175:25 onto (2) 84:19;89:23 Open (11)	95:16;101:15,21; 102:20;103:8;146:25; 157:14;203:6;239:11; 251:23;252:11 operated (1) 244:25 operating (1) 244:18 operational (1) 56:17 operations (1) 58:5 opinion (1) 218:2 opinions (1) 258:2 opponents (1) 253:23 opportunities (2) 152:4;262:12 opportunity (7) 41:1;77:3;184:9; 185:5;189:10;265:15; 269:15 oppose (1) 273:2 opposed (11) 124:10;133:2; 185:23;207:22;208:14; 257:12,20;258:8; 260:15;261:20;273:5 opposing (1) 257:13 opposite (1) 28:20 opposition (6) 73:7;113:18;160:25; 214:11;252:17;253:14 option (1) 172:13 options (2) 199:2;252:8 oral (4) 273:14;274:9,24; 275:10 ORD-14-00082 (1) 206:2 order (7) 35:21;36:1,16;37:8, 23;44:13;204:11 ordinance (28) 86:10;91:7,22;125:3; 148:2;189:6;206:2,7, 12,12,19;207:1,17; 214:9;216:15,18; 217:12;219:22;225:20; 227:6;228:20;229:5; 231:13,19;232:3,13,18; 235:5 ordinances (5) 90:6;92:4;172:21; 189:4;215:11 organizations (1)
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175:24 orient (1) 111:4 orientation (1) 116:6 original (4) 63:25;97:2;112:21; 206:11 originally (3) 137:11;147:17; 213:25 others (7) 28:6;171:6;209:18; 241:17;244:11;274:14, 17 Otherwise (3) 11:2;64:10;147:23 ours (5) 108:15;137:1; 216:11,16;235:5 ourselves (2) 73:5;244:23 out (31) 10:17;24:13;26:17; 50:11;85:12;93:14; 108:6,9;116:10;119:8, 10;121:9;128:1;138:2; 146:2,6;148:1;176:5, 24;180:14;199:3,5; 200:10;209:16;215:9; 222:5;231:3,16;235:6; 263:10,11 outdoor (12) 24:5;25:16,24;26:21; 27:7,8;84:15;117:24; 124:14;249:24;250:3; 264:10 outlets (1) 79:5 outlined (1) 191:11 outside (6) 18:15;35:6,10,11; 249:12;272:7 over (21) 10:1,15;13:8,13; 14:2;15:6;17:5,10; 25:23;76:11,12,18; 104:12;151:1;172:15; 189:1,2,13;190:24; 255:20;272:1 overall (1) 41:2 overdue (1) 127:8 overlap (1) 23:15 overseeing (1) 12:22 overview (1) 243:5 own (6) 25:6;122:19;169:11;	183:3;198:9;244:25 owned (7) 95:20;98:13,25; 99:18;118:17,18,22 ownership (1) 36:8 P PA (1) 58:7 page (130) 25:4;41:13,13,15,17, 19,23,25;42:8,9;43:10; 50:10,18;54:25;56:2; 57:21,25;63:1,15,19, 22;65:25;66:3,5,5,7; 67:17;68:13;73:14,15; 74:12;76:4,4;78:6,8, 12;79:1;81:6;82:10; 83:1,21;84:10,23,24; 85:2,6;86:16;87:5,17; 93:22;95:10,11,16,19; 99:8,11,13;107:16; 108:17;110:5,23; 111:5,14;113:9;116:2, 13,18;117:2;120:7,10, 11,14,17,20,20,21; 123:10;124:8;133:15; 134:14,18;138:18; 140:4,23;149:11; 150:3,6,10;151:5,5; 153:8;154:2;166:16; 167:6,7;168:22; 169:23;170:9;175:7,9; 180:22;181:6;183:8; 198:11,16,19,20; 200:20,20,23,23;203:7; 205:7;211:17;214:4,5, 21;217:9;230:15; 231:4;238:24;241:9; 242:6;249:6,20;250:2, 10,15;259:7;275:25 pages (15) 39:20;41:1,9,11; 42:13;43:6;65:24; 68:13;73:25;76:6; 83:11,12;108:3;116:7; 249:17 pagination (1) 63:23 paid (1) 210:13 pair (1) 25:22 paper (2) 17:23;19:23 paragraph (69) 25:15,18;43:10; 50:18,19;51:16;55:3,4, 10,19;56:2,8;66:13,20, 23;67:18;73:19;86:20; 87:17,25;98:20;99:1,	16,17,22;100:16;101:3, 6;111:23;112:5,13; 117:17;120:22;121:11, 16;123:4;126:13,14, 19;127:5;133:22; 149:16;151:25;154:3; 157:12;159:17;162:14, 25;164:9;179:8,13; 180:14,23;181:5; 183:8,9;190:18; 211:23;212:12;214:14, 23;217:11;227:2; 237:7;240:16;243:19; 248:4;251:22;253:6 paragraphs (2) 89:12;127:4 parallel (3) 215:6,12;216:6 paraphrase (1) 111:16 parcel (1) 180:17 parcels (1) 242:8 parent (8) 110:14,20;111:3; 187:8;230:19;253:18; 267:6,10 parents (15) 33:17,20;34:3; 127:17,19;128:2,5,12, 15;143:7;146:15; 266:10;267:1,11; 268:24 parish (1) 51:17 parishes (2) 51:13;52:7 Park (8) 29:21,25;30:3;31:8; 84:19;85:10,24;89:8 parking (29) 74:18,20,24;75:1; 81:7;89:12;107:6; 108:15,19;133:10,24; 134:2,6;135:9,13,19, 22;136:3,14;137:1,10, 16;141:3;187:25; 188:25;189:1;272:16, 25;273:2 parks (10) 29:23;146:4,6;148:7; 189:20;237:3,3; 254:24;275:13,14 parochial (4) 21:9;123:7,18; 262:14 part (40) 15:11;16:22;20:20, 24;26:2;29:11;32:2; 44:11;47:23;63:13; 71:4;72:22;74:2;75:17; 78:21;80:7;87:9,12,15;	88:17,20;94:25; 103:18;104:7;112:14; 118:19;121:14;123:17; 125:10;139:5;171:3; 172:2;175:4;180:17; 233:9;238:4;264:19; 265:9,25;273:25 participant (2) 112:20;197:24 participants (1) 197:23 participate (2) 38:14;39:4 participated (3) 44:5;70:3,16 participating (1) 72:21 particular (4) 40:20;137:10; 229:11;275:1 parties (3) 185:4;208:1,2 partnership (2) 123:17;264:19 partnerships (8) 175:24;176:9; 262:19,23;263:23; 270:21,24;271:6 parts (1) 124:22 pass (1) 216:11 passed (2) 218:4,17 passing (2) 217:11,12 past (10) 23:21,23;25:23;87:6; 111:3;123:5;124:3; 141:8;152:3;190:24 path (3) 86:5,14;274:18 pay (5) 171:2;196:3;200:6,8; 263:17 paying (2) 104:14;152:16 Peace (1) 11:18 peak (2) 166:17,23 Peggy (1) 62:13 pencil (1) 65:10 pending (2) 164:19;165:6 people (22) 69:19;72:9;100:8; 118:21;138:12;147:22; 171:5;173:13;189:1; 208:5;228:25;252:17, 18;253:13;254:2,11;	258:2,4;260:19; 262:13;265:11;267:15 per (3) 115:13;181:2;239:12 perceived (2) 79:7;228:10 percent (2) 51:2;88:5 percentage (2) 35:5;38:13 perfectly (2) 46:24;145:2 perforated (1) 88:1 perform (1) 140:7 performed (1) 15:15 performing (1) 105:10 perhaps (2) 63:8;113:3 Perimeter (2) 86:18,24 period (17) 13:16;49:7,20;74:8; 110:15;123:20;155:23; 186:16;188:6;220:4; 222:3;223:22;225:18; 230:23,24;231:17; 232:15 permanent (2) 58:17;172:14 permission (1) 192:12 permit (35) 56:4,10,14,23,24; 57:5,14;58:24;59:7,13, 15;145:7,17;146:7; 147:13;163:2;175:1, 12;182:5,24;185:7,8; 190:9,19;191:21; 250:17;251:18;252:18; 253:13;255:17;256:2; 258:7;261:17,23;262:3 permits (12) 15:1;53:25;66:16; 73:8;132:8;185:10,12, 14,16,17,20;186:1 person (8) 35:23;113:13;157:6; 185:21;260:5,7;266:2; 275:8 personally (3) 222:13;267:13; 274:25 personnel (2) 160:13;177:1 person's (1) 189:16 perspective (1) 237:16 petition (3)
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225:15,20,24 phone (2) 157:7;238:7 phonetically (1) 19:23 phrase (1) 46:22 physical (22) 95:21;98:14;99:2,19, 23,24;121:17,22;122:8, 10;157:16;176:12,18, 23;177:6,10,21,24; 178:1,5;191:15,24 pick (1) 128:12 picking (1) 267:2 picture (4) 41:25;76:25;116:22; 182:6 pictures (1) 155:11 pile (1) 93:12 pivot (1) 186:18 pivoting (1) 274:19 place (12) 34:18;133:1;143:6; 144:15,18;146:18; 220:8;246:4;263:6,8, 14;270:10 placed (4) 84:18;250:23; 251:13;255:4 places (3) 127:1;263:14;271:19 plaintiff (3) 8:18,21;275:20 plan (307) 17:25;25:7,10,19; 54:3,4,7,8,13;57:10; 58:1;60:15;61:3,21; 62:19;65:23;66:9,15, 17,25;67:5,12,21,24; 68:4,6,8,14,21;69:5,12, 22,25;70:13;71:13,18, 19;72:11,16,23;73:12, 17,21,22;74:2,8;75:7, 12,18;79:23;82:3; 83:12;86:13;87:9,13, 15;88:20,22,23,24; 89:20;90:14,15;93:3; 94:9,12,20,22,23;95:5, 17,25;96:5,6;97:10; 98:3,13,21,23,24; 100:20;101:20,25; 102:10,10,15,20;103:6, 8;104:22;105:5,9,17, 19;106:6,10,20,25; 107:10;108:11,13; 112:7,10,14,21;114:4,	12;115:13;129:7,18, 22;130:7,10,15,20,24; 133:10;134:1,9;135:8, 13;136:3,13;137:9,11; 142:6,22;143:17; 144:10;145:13,19; 148:24;149:5,23; 150:8,16;151:10,15; 153:4,12;155:2; 156:22;157:3,10,14,14; 159:11,25;160:24; 161:6;162:21;163:1; 164:12;165:6;166:7; 172:8,10,17,22;173:1, 11,19;174:2,20; 176:22;180:17,20; 181:1,1,12;182:4,25; 184:22;186:15,20; 187:17;188:17,18; 190:3,4,4,11,21; 191:14,23;192:25; 193:1,204:2,11; 205:19;206:4,8,11,13; 207:5,9,10,16,18,22; 208:7,9,15;209:6; 210:10;211:10,21,25; 212:4,6,7,13,15,21,22, 25;213:4,6,14,22,25; 214:7,16,24;215:3,5,7, 13,15,25;216:1;217:4; 218:11,17,25;219:8,20; 221:4,9;222:21;223:6, 13;224:9,18;225:3,14, 21;226:5;227:6,11; 228:22;229:3,5,13,25; 234:17,18,21;235:2,7, 12;236:3,4,8,15,16; 237:4,9,12,20,21; 238:5,10,14;239:12; 242:8;243:20,21; 244:1,2,4,11,18; 245:21,22;246:1,3,7, 22;247:4,9;248:6,21, 24;249:10;250:18,21; 251:1,17;252:6,10,16; 254:25;255:16;256:5, 11;261:17 plane (1) 215:19 planned (1) 131:16 planning (13) 14:19;100:19;104:9, 15;125:20,21;149:13; 174:25;175:10;213:15; 221:4;229:14;235:11 plans (10) 18:1,10,14;78:18; 92:5;97:16;98:2; 114:23;147:17;174:5 play (63) 20:19;23:5,11;26:19, 22;27:19,24;29:2,12;	30:12,21;31:1,4,22; 32:4,7;120:8,16,19; 126:20,23;127:2; 143:6;144:15,18; 145:24;146:10,13,16, 19,21;147:1;158:13, 19;159:9;186:13; 189:25;192:7,12,22,24; 193:8,15;194:3; 200:22;203:19;204:9; 217:19;218:5,21; 219:6,18,23;220:12,20, 23;263:4,8,14,15; 265:10;266:14,17 played (13) 21:23;28:5;29:10,11, 19,22,23;32:11,16,18, 25;147:9;218:22 players (1) 268:5 playing (13) 23:3,7;28:8;32:21; 33:4;124:10;154:16; 158:14;198:22;218:23; 219:2;266:22,23 plays (11) 20:22;21:5;22:10,22, 24;23:9;30:24,25;53:7; 153:20;262:15 please (14) 34:17;46:14;50:13; 67:23;84:10;99:6; 126:13;158:5;168:18; 196:19;205:24;221:6; 267:24;269:5 pleased (3) 247:8,19;248:4 Pleasure (4) 84:19;85:11,24;89:8 plow (1) 137:7 pm (1) 276:15 point (22) 10:14;22:15;24:13; 39:11;40:14;52:17; 81:6;124:16,25;125:5, 16;126:13;146:18; 150:22;151:8;180:14; 185:3;188:9;222:17; 247:14;263:24;274:19 poles (4) 89:16;183:15; 250:12,13 policy (1) 164:18 politics (1) 234:3 poor (2) 45:25;140:18 population (2) 43:17;51:2 porta (1)	147:23 portion (2) 125:7;242:6 pose (1) 81:21 position (24) 13:11;14:6,24;15:10; 17:9,14;109:14,15,17; 113:5;129:9;136:9; 163:3;164:6;189:16; 191:22;192:1,6; 201:16;204:8;220:10; 233:11,17;234:14 positive (2) 26:23;65:24 possibility (3) 32:21;33:4;223:12 possible (6) 117:19;124:13; 170:11;256:10;264:12, 24 possibly (3) 69:19;254:8;271:9 Post-It (2) 63:2,18 Post-Its (2) 65:19,19 potential (1) 119:14 potentially (3) 116:8;119:9;194:8 pots (1) 147:23 Potter (1) 101:1 practical (1) 217:18 practice (11) 23:10;55:14,22; 113:19;120:24;121:1; 124:12;125:4,6;127:8; 271:17 practices (21) 47:8;95:21;98:14; 99:2,19;117:7;123:7; 124:14;152:11;157:16, 17;176:12,18;177:6,11, 22;178:8,9,16;191:15, 24 preceded (1) 216:9 precluded (1) 30:4 preCOVID (1) 202:17 preference (1) 274:3 prehigh (1) 269:20 prejudice (5) 219:7,10;250:24; 251:14;255:4 premise (2)	91:9;219:25 prep (1) 19:8 preparatory (1) 19:3 presence (1) 52:1 present (5) 100:20;186:7;191:2; 222:16;233:15 presentation (2) 137:25;138:23 presented (6) 54:8;147:18;153:15; 158:11;169:19;251:25 president (36) 12:14,17;13:6,14,17, 24;14:3,5,24;15:8,9; 17:9;18:5,7;43:24; 44:2,16;48:18;57:3; 58:21;59:5;69:13; 78:22;90:17,20; 103:20;104:12;109:12; 141:18;227:5,10; 228:19;230:22;231:16; 232:5;245:16 presume (1) 241:12 pretty (3) 102:12;147:7;216:22 prevent (1) 89:17 preview (1) 42:6 previous (5) 57:19;62:18;69:13; 76:6;154:15 previously (3) 65:18;171:13;203:3 principal (2) 12:23,24 principal's (1) 12:25 printed (2) 63:5;116:10 printing (5) 13:20,21,22,23,25 Prior (46) 12:1;13:11,18;14:24; 15:23;16:5;17:10; 21:15,18;47:6,14; 53:18,22,25;54:3; 66:15;67:10;68:3;73:7, 8;87:13,18;93:6; 105:23;106:18;115:13; 140:12,16,17,18,20; 141:15;146:11,21; 158:21;162:9;172:25; 179:10;183:12;184:5; 195:13;204:18;205:4; 211:8;217:2;264:25 private (2) 19:2;161:4
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<p>privilege (1) 174:8</p> <p>privy (1) 244:5</p> <p>Probably (12) 16:7,14;20:17;22:14; 33:1;49:3;112:2; 119:18;142:6;257:22, 25;264:20</p> <p>problem (7) 10:22;125:1;133:23; 198:7,8;216:21;246:19</p> <p>Problemesome (2) 198:10,10</p> <p>procedure (1) 57:19</p> <p>procedures (1) 56:16</p> <p>proceed (5) 8:16;129:21;164:25; 187:17;201:9</p> <p>proceeding (2) 222:20;223:5</p> <p>proceedings (8) 65:3;76:22;161:18; 170:24;194:22;203:22; 226:2;243:3</p> <p>process (41) 53:20;57:6,14;59:20; 67:6;72:22;100:21; 101:4,8,14,20;102:15; 103:6,8;104:9,25; 105:13,16,17,19;106:3, 17,24;107:7;108:12; 115:7;130:2;143:13; 149:23;165:14,20; 189:13;194:7;197:11; 201:12;207:8;233:9; 234:8;241:17;258:7; 266:1</p> <p>procure (2) 118:25;166:8</p> <p>procuring (1) 118:24</p> <p>produced (1) 242:5</p> <p>product (2) 121:20,21</p> <p>program (10) 29:15,23;31:10,20, 21;32:14;37:8,22;38:6; 267:3</p> <p>programs (12) 30:11,19,21;32:4; 33:8;37:19,19,20; 120:25;121:23;124:5; 265:6</p> <p>progress (2) 100:19;201:20</p> <p>progress/positive (1) 201:11</p> <p>progression (1) 201:11</p>	<p>prohibited (1) 219:2</p> <p>project (23) 80:17,18,20,21; 86:10;104:16;105:22; 124:1;129:17;135:4, 14;137:2,4,10;141:20; 150:6;151:8,9;154:24; 155:24;160:6;234:15; 249:23</p> <p>projects (14) 25:22;66:17;74:1,9; 103:17;104:2;105:4,8; 106:22;107:9,16; 136:23;170:3;272:1</p> <p>promised (1) 104:22</p> <p>properties (4) 30:1;244:13;251:4; 256:16</p> <p>property (13) 53:21;91:8,21; 101:24;102:23;103:11; 135:23;136:6;189:4; 212:18,18;237:15,15</p> <p>proposal (4) 166:12;169:20; 171:3;208:6</p> <p>proposed (7) 59:14;100:21; 207:17;209:6;212:16; 237:12;251:8</p> <p>proposing (2) 133:25;250:11</p> <p>prospective (1) 125:20</p> <p>protest (3) 225:15,20,23</p> <p>proven (1) 242:12</p> <p>provide (4) 44:11;95:25;124:13; 233:3</p> <p>provided (14) 44:17;63:6;65:14; 96:17;97:8,9,13,16; 98:3;123:6;124:18,20; 202:24;218:11</p> <p>providing (1) 36:4</p> <p>provision (2) 84:3;85:9</p> <p>public (3) 50:23;207:10,16</p> <p>publicly (1) 145:12</p> <p>pull (2) 185:7,8</p> <p>pulled (4) 185:10,12,14,16</p> <p>purpose (7) 62:8;70:21;118:12; 156:19;175:17;191:19;</p>	<p>232:23</p> <p>purposes (5) 51:11;117:23; 176:12,18;272:2</p> <p>pursue (1) 159:10</p> <p>pursuit (1) 243:10</p> <p>put (25) 58:25;59:8,25;60:13, 18,25;61:10;65:19; 120:3;124:25;125:14, 22;132:14;133:1; 139:19;147:20,22; 150:25;166:7;193:23; 199:17,23;205:1; 216:15;227:20</p> <p>putting (4) 95:2;122:23;125:25; 132:7</p> <p>PVC (2) 132:8,25</p>	<p>ranged (1) 166:18</p> <p>rather (5) 127:25;222:21; 223:6,13;224:18</p> <p>Re (2) 187:9,10</p> <p>Rea (1) 18:9</p> <p>reach (4) 119:8,10;146:2,6</p> <p>reaching (2) 231:3,16</p> <p>read (75) 25:15;50:19;55:4; 66:18;78:1,3;79:13; 81:9;84:21;85:9;87:10; 88:7;89:9,18;99:16; 101:10;111:13,16,22; 112:3,11,18;113:1,5, 19;116:11;117:8; 120:13;121:23;123:12; 124:5,16;125:7; 126:14;134:2;142:15; 143:2,14;149:25; 156:23;158:2;162:21; 163:4;164:15,20; 165:1;168:20;172:22; 180:20;181:3,12; 190:17;191:17;196:25; 199:6;201:13;205:19; 206:4;210:25;211:3; 214:18;227:7;237:17; 241:12,15,24,25; 242:13;248:6;249:15; 250:24;251:10;258:24; 261:3;276:11</p> <p>reading (2) 17:23;190:23</p> <p>ready (3) 48:6;50:20;156:6</p> <p>reaffirm (1) 88:19</p> <p>reaffirmed (3) 87:8,14,19</p> <p>real (1) 12:16</p> <p>really (13) 18:13;90:19;94:25; 103:14,22;104:8; 118:5;124:11;188:21, 24;209:11;263:21; 264:9</p> <p>reason (12) 11:11;43:15;47:23; 79:25;104:18;122:13, 25;163:25;193:22; 257:25;267:16;274:17</p> <p>Reasonable (3) 79:9;113:12;130:8</p> <p>reasons (2) 48:3;104:21</p> <p>recall (96)</p>	<p>22:15;39:2;57:17; 60:16;70:10;112:9,13; 113:24;114:1,2,8,9,18, 24;115:10;119:11,12, 24;121:4,12;129:10; 147:5;148:17;152:25; 153:1,2,3;156:25; 157:8,25;158:9,9,25; 159:6,6,21;163:20; 165:17;177:2;180:3, 11;184:15;188:7; 196:5;203:12,16,23; 204:5;207:13,15; 212:21;213:1,2,4,13, 18;222:18;223:9; 224:4,7,14;225:23; 226:8;227:16,19,24,25; 228:24;229:2,7,8,11; 230:2;231:23,24; 232:4,7;234:20,23,24, 25;238:10;243:16,17; 244:10,15;245:25; 246:5,10,21;247:6; 256:4,6,7;261:25; 270:21</p> <p>recalling (2) 157:22;232:14</p> <p>receive (3) 163:18;164:1;228:2</p> <p>received (18) 44:25;47:12;81:3; 115:4,18;124:2;164:3; 173:8;178:24;190:24; 195:17;196:2;210:16; 228:4;236:7;237:2; 255:7;258:14</p> <p>receiving (6) 94:21;114:2;115:7, 19;128:21;210:17</p> <p>recent (5) 53:3;59:21;123:12; 154:4;172:9</p> <p>recently (2) 45:23;172:19</p> <p>Recess (7) 50:6;65:1;92:21; 109:6;161:16;194:20; 270:15</p> <p>recipients (2) 94:1;100:9</p> <p>recitation (1) 80:1</p> <p>recognize (27) 40:21;42:22;62:21; 65:22;72:2;139:18; 150:15;152:24;156:14; 162:1;169:18;195:16, 21;202:25;204:23; 205:4,6;209:14; 226:21;230:13;235:22; 238:22;241:5;247:25; 249:18;253:2;254:21</p> <p>recollection (16)</p>
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15:2;26:5;72:14; 77:4;112:25;121:7; 129:11;210:17;216:8; 223:15;226:13;237:19; 240:10;250:19;255:8; 257:17 recommend (1) 187:20 recommended (3) 211:25;214:17,25 recommending (3) 212:12;213:7;237:8 reconsidering (1) 252:11 record (27) 8:2,4,14;47:4;50:4,8; 62:23;64:17,23,24; 65:7,16;92:19,23; 107:25;109:4,10; 161:14,20;163:24; 194:18,24;230:7; 249:7;270:13,19; 276:13 recorded (1) 167:12 records (2) 48:24;152:19 recruit (5) 262:10;264:21; 265:24;269:15,20 recruiting (2) 263:22,22 Reddan (6) 23:3;32:9,12;53:7, 10;126:23 R-e-d-d-a-n (1) 23:3 redevelopment (1) 155:13 redo (1) 182:5 redoing (1) 131:6 redone (1) 21:21 reduce (1) 79:6 reduced (1) 155:24 reentered (4) 76:21;170:23; 203:21;243:2 reestablished (1) 244:23 refer (12) 31:15,16;66:3;82:14, 23;223:3;234:21; 235:1,10,11;236:8; 245:3 reference (6) 76:17;80:5;86:4,12; 185:22;239:20 referenced (1)	238:9 references (3) 41:6;74:20;113:15 referencing (3) 190:18;240:17,19 referral (2) 212:13;237:8 referrals (2) 226:7;255:20 referred (12) 21:1;27:13;40:12; 85:9,10;174:13,14; 190:15;212:8;213:11; 236:3;269:11 referring (19) 25:14,15;31:15; 75:24;82:15,24;85:24; 97:8;126:14;159:17; 173:21;179:9;219:7; 19;229:16;234:17; 236:14;238:1;242:17 refers (10) 56:2,9;77:6;84:12; 117:18;123:4;146:3; 155:12,13;211:20 reflect (2) 60:10;248:9 reflected (1) 60:8 reflects (2) 42:10;250:16 refresh (3) 72:14;237:19;240:9 refreshed (1) 77:4 regard (25) 15:3,10;26:3;27:15; 29:9;30:10;57:13; 61:10;85:23;89:21; 101:13;121:11;139:19; 146:7;159:16;162:9; 177:4,5;179:10,19; 197:13;201:25;203:11; 255:19;270:25 regarding (19) 15:1;55:22;61:19; 70:13;80:9;90:6; 119:14;129:2;147:10; 148:8;157:1;174:10; 180:1;191:8;195:17; 24;225:23;271:7; 273:11 regardless (3) 157:23;217:22;256:7 regards (3) 71:7;182:7;189:14 registered (2) 214:11;257:12 regular (1) 230:21 regulated (1) 172:21 regulation (1)	56:18 reject (1) 239:10 rejected (1) 239:3 rejection (1) 239:5 relate (5) 83:6,8,12;91:3;97:12 related (5) 83:23;104:3;107:10; 137:16;166:12 relates (9) 83:24;135:8;136:13; 153:15;156:21;157:2; 169:19;180:1;203:18 relating (3) 86:23;191:1;197:7 relationship (6) 36:5;51:25;110:12; 143:20;212:15;237:11 relationships (1) 52:8 relatively (1) 161:4 relevant (1) 153:21 religion (6) 262:5,25;264:18; 265:1,18,18 religious (1) 19:25 remain (1) 75:23 remaining (1) 247:17 remember (27) 60:22;61:2;102:8; 112:13;115:3,8,19; 146:9;147:10;157:4; 185:21;204:7,14; 213:7,9;223:22; 224:10;226:6;228:15; 229:19,23,24;232:2; 245:11,13;246:9; 260:11 remembering (1) 157:23 removed (4) 96:11,14;97:3;99:23 renovate (1) 47:13 renovation (9) 45:21,23;46:3,8; 47:12;48:9,10;77:7; 121:2 renovations (4) 21:10;47:5,6,7 repeal (54) 186:20;190:4; 192:25;206:2,7,13,19; 207:4,17,22;208:6,14; 212:1,7,14,24;213:21;	215:4,24;217:12; 218:16,24;219:8,20; 221:4,9;222:22;223:6, 13;224:9,19;225:21; 226:4;228:21;229:4, 16;230:1;234:17,21; 235:2,12;236:2,9,15; 237:8,11;243:21; 245:21;246:4,7,21; 247:4;248:20,24 repealed (1) 188:18 repealing (9) 207:9;211:21; 212:15;213:6;225:3; 235:7;237:11;247:9; 248:6 repeat (10) 29:8;30:15;50:12; 59:3;77:25;128:14; 177:7;246:17;267:24; 269:9 repeated (3) 10:25;11:3;89:21 repeatedly (2) 141:8;188:14 rephrase (10) 45:25;52:17;95:11; 103:2;114:17;167:9; 183:25;195:20;210:20; 251:21 replace (3) 130:6;131:22;148:5 replaced (1) 128:22 replacement (1) 129:16 replacing (1) 131:24 replied (1) 61:8 report (8) 42:23;44:1,8,20,24; 45:2;50:22;51:22 reporter (23) 8:15;10:6,17;63:7; 64:15;69:16;107:18; 121:5,8,13;122:1,5,22; 123:16;124:19;125:8; 138:6;139:16;166:4; 202:22;208:21;248:15; 253:9 reporters (1) 122:18 reporting (1) 44:21 represent (13) 25:5;39:19;65:13; 115:25;163:23;178:23; 180:7;202:14;204:18; 211:9;217:3;246:3; 274:1 representation (2)	208:3;274:21 representative (2) 193:13;234:9 representatives (7) 79:17;165:8,9,19; 223:10;234:13;261:8 represented (1) 179:4 representing (1) 244:6 request (22) 53:24;147:12; 160:23;172:9;205:18; 206:1,6;217:12; 235:10;236:8;237:8; 243:20;251:24;252:12; 255:1,4;256:21; 257:13,20;264:25; 273:2,11 requested (7) 135:15;136:7; 212:13;235:13;237:10; 272:17,18 requesting (6) 144:20;213:21; 234:20;236:2,14; 237:20 requests (1) 235:1 require (13) 79:3;121:16;129:6; 148:24;149:4;172:7, 19,21;173:7,10,18; 174:19;217:21 required (7) 106:20;145:19; 155:2;173:1;186:14; 188:16;272:23 requirement (7) 14:6,9;37:7,22,25; 39:3;121:19 requirements (2) 36:15;269:25 requires (2) 145:13;217:23 requiring (3) 130:7;190:10,20 rerefer (1) 227:11 rereferral (3) 212:1;214:17,25 rereferred (1) 226:4 rereferring (1) 229:4 reserve (1) 276:11 resident (6) 11:21;82:11,14,17; 83:13;233:25 Resolution (4) 55:1;57:22;197:13; 207:4
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resource (1) 149:25	resurface (1) 130:25	ripped (1) 133:1	97:21,21;98:1	139:19;162:16;168:24;
respect (95) 14:5;20:16;22:3,21; 26:20;27:7,18,23; 29:25;31:10,20;32:3; 13,24;33:7,19;35:17; 40:25;42:13;43:22; 44:20;46:7;47:11;49:7; 50:9;53:10;66:12; 67:11,17;68:21;69:4; 71:2;75:4;77:18,20; 80:24;81:19;82:3; 83:11;84:6;88:10; 89:20;92:11;95:4;96:4; 100:24;102:14;104:1; 105:11;106:9,18; 107:9;118:7;125:25; 127:19;131:24;145:5; 149:15;151:21;152:8; 159:24;160:17;161:6; 162:19;163:21;164:9; 14;166:6;174:8;178:8; 183:18;184:10,19; 196:6;199:8;203:6,24; 210:18;213:24;219:5; 18;220:2,11,12; 228:18;230:25,25; 239:19;243:9,18; 265:6,17;267:19; 269:6,19	resurfaced (1) 130:14	Rist (6) 162:3,6;163:14,19; 173:22;174:9	Sara (5) 134:12,19;142:18, 20;143:20	172:8;174:24;175:10; 179:5;196:20;197:4; 198:25;201:8;205:16, 16;210:7;227:7; 242:21;243:8;244:2,3, 7,8,9,25;245:5,6; 249:14;259:14;262:9; 263:10,12;265:15; 266:6;267:2;268:16; 269:13,14,16;270:1; 271:3;272:3,8,16; 275:21
retirement (2) 18:2,15	retiring (1) 17:24	R-i-s-t (1) 162:3	sat (1) 16:22	schoolers (1) 269:20
Retreats (2) 175:23;176:4	Rettler (8) 131:18;132:20; 140:5,9,21;141:21; 155:11;238:25	Road (5) 25:17,25;32:9,12,18	satisfaction (1) 264:6	schools (37) 18:21;20:19;21:9; 22:1;23:16;33:2,38;10; 40:13,16,17;44:12; 45:4;50:24;51:13,18; 52:1,9;69:6;83:20; 84:5,8;95:3;118:4; 123:7,19;132:3; 175:25;242:11;262:14, 14,14,23;263:4,11; 265:13;266:17;270:3
R-e-t-t-l-e-r (1) 140:5	reup (1) 199:18	role (4) 14:2;57:2;71:9; 102:15	satisfied (2) 66:15;68:7	schools' (2) 205:17,25
review (21) 39:25;40:5;41:5; 42:5,7;55:7,8;67:14; 95:1;98:4;100:12,22; 106:2,24;108:12; 111:9;142:12;187:1; 208:24;209:2;223:20	reviewed (6) 41:9,11;44:24;56:25; 94:23;95:5	Room (2) 67:25;97:23	satisfy (1) 66:25	school's (11) 21:11;26:20;30:10, 18;42:18;52:10;53:2; 77:14;120:25;201:16; 243:10
reup (1) 199:18	reviewing (1) 94:21	rooms (2) 151:11;154:25	Saturday (2) 171:4;271:9	science (1) 176:6
rough (7) 12:6;16:11;35:5,9; 119:23;140:20;141:23	revised (3) 58:1;67:22;75:1	roughly (5) 13:9;16:16;21:11; 49:11;119:13	saw (5) 107:15;169:22; 184:18;198:2;204:24	scope (2) 56:18;155:24
roughly (5) 13:9;16:16;21:11; 49:11;119:13	revising (1) 74:20	routinely (1) 80:24	saying (17) 34:11,11,16;64:16; 101:14;116:19;144:2; 178:16,17;184:10; 192:4;205:21;227:25; 229:12;231:2;253:21; 268:4	score (2) 154:7;189:14
running (2) 36:12;253:14	revocation (4) 179:9;183:12;184:2, 5	Rule (2) 99:5;219:22	scaled (1) 147:17	Scott (1) 94:5
runs (1) 268:13	revoked (1) 183:22	Rummel (1) 211:25	schedule (5) 168:19;178:15; 220:22;221:14,24	season (1) 146:18
S	rezone (1) 53:14	run (2) 12:18;263:24	scheduled (2) 146:10,21	seasonal (1) 58:7
Sacred (6) 8:8,19,22;162:16; 196:21;275:21	right (51) 10:6,18;11:10;12:11; 17:24;26:24;27:12; 33:3,64;11;73:16; 74:16;76:11,18;84:10, 15;86:14;91:10;93:15; 95:11;97:7;111:22; 113:8;117:1;118:19; 119:20;127:22;128:8; 132:15;137:11,12,18; 141:15;148:15;149:17; 151:22;156:1;160:12; 165:24;167:6;170:6; 183:2;204:25;205:24; 213:8;215:10;219:5; 231:16;240:25;247:21; 253:6;260:1	Sadly (1) 62:13	schedules (3) 220:19;222:1;263:3	seasons (1) 123:21
safety (1) 86:23	revoking (1) 179:9;183:12;184:2, 5	sales (1) 12:3	Schemmel (4) 17:11,12,18;69:14	seat (2) 58:7;147:21
same (30) 16:24;19:25;59:10; 62:5;63:4;78:4;80:9; 92:3;99:22;116:9; 131:23;200:23;214:3, 7;215:18;216:7,9,13, 24;218:4;225:13; 257:22,25;265:15; 266:9,14;267:22; 268:2;269:15;273:12	rights (3) 92:3;216:10,14	sample (2) 97:16;98:1	School (159) 8:7,19,21;11:18,19, 25;12:11,14,18,20; 15:16;18:23,24;19:2,3, 7,8,10,11,11,24;20:1,4, 6,22,24;21:1,4,14;22:4; 23:13,14,18,19;24:1; 26:7,11;31:16,17; 32:20;35:6,21;36:2,11, 13,15;37:4,8,16;38:4, 10,12;40:18;43:11; 44:16;47:25;49:10; 51:6,7,19;52:11,12,13, 19,22;69:2,18;70:5; 71:7,8;74:21;77:15; 80:7,12,12,18,19,20; 82:5,17;83:8,14,25; 84:13;94:24;95:6,20; 97:1;98:14,25;99:18; 102:12,12;103:15; 105:10,12;107:2,4,11, 12;108:10;112:6,10; 115:1;123:9;126:17, 21;127:19,20,24; 128:10;133:25;134:6, 24;135:21;137:17;	seating (15) 111:11;138:19; 142:24;143:19;147:16, 25;150:23;151:11; 154:25;155:12,22; 166:8,13;172:14;200:2
samples (3)				seats (3) 143:8,10;151:4
				second (29) 42:9;43:10;55:3,19; 66:13,20;100:12; 101:3;111:5,9;140:4; 142:12;149:16;153:8; 159:17;164:5,9;179:8;

180:14;187:1;203:7; 208:24;212:12;237:7; 240:22;241:9;250:15; 251:22;253:5 secondary (1) 249:12 seconded (3) 211:24;214:16,24 section (7) 40:12;73:17;84:12; 87:7;157:14;181:2; 191:21 secure (2) 28:18,21 secured (3) 34:4,14,18 securing (1) 34:23 security (1) 84:16 seeing (3) 76:18;180:11;218:9 seek (5) 101:15,22;102:21; 104:1;251:17 seeking (4) 58:22;103:9;113:17; 152:4 seem (1) 150:21 seems (1) 193:19 seldom (1) 274:3 selected (1) 121:10 self-study (1) 44:10 semesters (1) 121:17 send (4) 164:23;210:24; 259:25;267:7 senior (12) 13:4,5;142:22;143:6, 18;144:15;146:11,17; 147:5,7,11,12 sense (1) 132:24 sensors (1) 89:5 sent (8) 72:5;115:20;156:15; 162:17;186:1;190:25; 257:19;259:12 sentence (21) 43:11;55:5,6,18; 56:6,66;14,20;94:14; 101:6,12;123:5;134:8; 153:18,23;154:3; 162:24;164:5;180:15, 24;205:24;248:9 sentiment (8)	121:4,12;122:4,17; 123:3,15;125:8,10 separate (11) 15:19;23:14,17; 80:11;90:23;169:12; 223:8;234:24;240:20; 242:11;245:14 separately (1) 31:18 September (34) 212:1,9;214:18; 215:1,7,13,14;216:1,5; 217:17;219:21;220:14; 221:13,17;222:19; 223:4,9,25;224:17,21; 225:3,18;226:3,11,20; 227:4;228:6,13,18; 231:1,17;232:15; 239:20;261:5 series (1) 95:9 served (4) 15:16,22,24;16:4 service (4) 16:13,15;37:19; 268:13 services (1) 15:15 serving (2) 16:8;18:10 session (2) 10:3;175:8 set (2) 100:2;275:22 sets (1) 147:20 setting (2) 37:17,18 seven-year (1) 44:10 several (5) 72:9;100:8;111:6; 255:20,20 shade (1) 88:4 shades (2) 88:1,11 shall (2) 66:15;84:16 shape (1) 21:20 share (3) 100:19;227:3;233:8 shared (2) 102:16;135:3 shields (1) 89:17 Shiva (6) 226:9;227:5;231:6, 13,16,24 shop (2) 232:1,5 short (2)	108:25;270:11 show (7) 42:21;65:8;240:15; 257:2;264:12;273:1; 275:19 showed (2) 208:5;248:19 showing (54) 24:19;39:18;54:18; 62:17;71:23;85:20; 93:16;99:13;100:6; 110:3;115:24;133:8; 138:7;139:17;142:11; 144:19;149:10;152:23; 156:13;161:23;163:9; 167:7;168:9;169:17; 171:12;178:22;180:6; 186:25;195:12;196:15; 197:18;204:17;205:3; 208:23;211:7;217:1; 223:19;226:19;230:12, 15;235:21;236:21; 238:21;241:4;247:24; 249:4;253:1;254:20; 255:14;257:4;258:13; 260:24;262:7,11 shown (2) 180:25;181:7 shows (1) 144:14 shuffling (1) 263:2 sic (3) 112:18;137:23; 159:19 side (8) 12:18;76:19;79:10; 87:20;88:2;89:7; 128:11;202:25 sides (3) 89:17;143:24;258:4 sign (8) 67:13;142:21; 143:16;144:4,8; 145:11;241:15;276:12 signature (3) 151:6;241:9;276:1 signed (14) 67:14;82:4;104:11; 133:19;149:12;150:10; 205:8;241:13,18,20,21, 25;250:7;255:15 significant (3) 46:8,10,11 signing (2) 82:7;87:12 signoff (6) 68:14,18;143:11; 144:12;145:23,25 signs (1) 151:1 simply (3) 129:14;181:11;	256:12 single (1) 96:20 Sinsinawa (13) 19:13,14,20,21,22; 35:19,20;36:24;37:5, 10;38:5,21;263:1 Sinsinawa's (3) 39:10,21;42:11 Sister (3) 94:5;95:1;242:1 Sisters (14) 19:12;35:18;36:24; 37:4,9;38:5,21,24;39:9, 20;41:2,25;42:10; 263:1 Sisters' (1) 40:23 sit (5) 15:12;34:20;177:18; 193:10;213:13 site (21) 28:18,21;40:11,12; 52:19,21;73:22;78:12, 17;86:20;112:16; 124:4;127:7,12,16; 178:6;191:14;221:24; 238:9;266:22,23 situation (1) 274:4 six (2) 16:14;25:14 six-year (1) 16:7 size (1) 150:25 sketch (1) 12:17 skipping (2) 73:19;181:5 small (2) 51:5;265:13 Smart (1) 113:12 soccer (11) 22:17,25;24:9;30:23; 32:3,4,7,10;126:22,23; 154:16 softball (11) 20:14;22:7;24:10; 27:3,9,16;29:18,23; 31:6,7;120:25 somebody (1) 200:1 someone (4) 12:15;213:21; 241:19;254:15 sometimes (4) 28:7;80:16;146:13; 242:11 somewhere (4) 16:15;21:16;45:11; 48:16	soon (2) 48:7;140:18 sooner (1) 139:7 sorry (69) 12:25;15:23;17:6,16; 19:4,6,22;31:12;33:13, 13;35:16;41:16;42:4; 47:3;50:11,12;56:5; 63:20;66:19,22;73:13; 74:15;76:23;78:25; 80:4;82:20;84:23; 85:16;93:12;95:13; 99:7;101:12;107:20; 114:15;119:15;120:21; 135:4;137:14;149:1; 154:22;157:5;158:3; 168:8;170:5,6;172:4; 175:3;194:16;198:18, 19;202:20;205:2; 209:1;210:14;214:20, 21;215:13;216:20; 219:15;238:19;246:17; 247:1;251:20;257:25; 258:18,20;260:3; 261:1;269:9 sort (1) 63:2 sought (3) 59:6,12;133:9 sound (43) 58:25;59:9,16,18,21; 60:2,19,25;61:11; 79:10;141:3;150:17; 166:7,9,11,13,16; 169:10,11,18,20,22,24; 170:7,9,17;171:3,6,9; 172:7,18,20;173:2,7, 10,19;174:2,17,18; 188:1;191:3,5;245:23 Sounds (1) 11:9 south (1) 89:7 space (7) 70:19;80:25;95:16; 96:23;157:14;239:11; 272:3 spaces (7) 75:8;88:3;96:18; 97:11,22,24;271:2 span (1) 148:14 spare (1) 62:16 speak (5) 38:9;202:25;233:10; 242:24;245:1 speakers (1) 208:1 speaking (4) 46:16,25;229:4; 269:8
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speaks (1) 209:11	114:5;11:20;115:13; 126:21;127:6,11;	100:23;162:15;191:25; 239:14	streamlined (3) 101:8;104:25;106:9	251:5
special (1) 264:7	128:18;137:25;138:24; 139:20;140:10;144:5,	stating (4) 46:23;227:16;238:6; 273:21	streamlining (1) 101:13	substance (3) 71:7;104:20;157:19
specific (2) 90:2;113:15	11,22;145:11,18;146:1, 16;148:24;149:4;	status (4) 212:17;237:14; 238:2;259:16	Street (8) 55:12;76:12,20; 79:10;81:8;133:24; 167:2;249:8	substantial (3) 251:3;256:14;274:20
Specifically (7) 62:25;157:12;177:5, 19,20;189:23;274:24	150:17,19;151:1,3,17; 155:12,14,18,22; 180:25;187:18;239:11; 249:14;255:3	stay (1) 128:9	strike (14) 15:4;23:7;31:11; 46:7;59:13;82:2; 144:25;193:25;228:3; 241:8;243:24;247:16; 249:19;260:8	substantially (2) 262:4;264:17
speculation (4) 35:13;102:7;161:8; 256:18	stadiums (2) 28:2,3	stellar (3) 127:7,12,16	string (1) 224:2	Sue (1) 100:18
speed (2) 57:18;228:10	staff (10) 68:2;100:19;145:8, 18;172:16;213:5,7,15; 229:14;267:12	steps (3) 79:6,9;106:13	strip (4) 83:18;84:18;85:10, 23	sued (2) 206:21,24
spend (2) 135:22;263:13	staff's (1) 237:16	Sterett (9) 8:20,20;35:19;62:15; 168:11;194:16;203:8, 13;205:2	strongest (1) 113:18	suffered (1) 264:23
spill (2) 91:18;92:13	stalls (3) 74:18,24;107:7	Steve (1) 232:22	strongly (2) 37:15;136:7	suggest (1) 51:23
spillage (3) 84:19;88:4,13	stand (2) 151:16;189:19	Steven (3) 230:16,18;231:1	struck (3) 96:6,25;97:1	suggested (2) 170:14;177:11
spilling (1) 92:14	standard (2) 36:21;251:2	Stevens (3) 28:4;30:1,2	structure (2) 58:17;172:14	suggesting (4) 97:15;122:23;177:3; 224:17
split (1) 245:13	standards (2) 250:22;255:3	stick (1) 268:15	struggling (2) 51:17;136:25	suggests (2) 11:20;114:3
spoke (3) 45:20;228:12,16	standpoint (1) 264:10	still (24) 17:12,18,20;56:16; 106:14,15,16;109:11, 18;151:17;181:22; 182:12,14;184:8,9; 185:3,5;197:11; 199:19;201:10;221:24; 245:18;248:23;269:25	student (7) 37:14;43:16,17; 187:8;253:18;262:10; 264:6	summarizes (1) 237:16
sponsor (6) 37:8;206:1,7,18,25; 207:4	Standridge (3) 209:18,21;210:24	stipulation (1) 118:20	students (49) 33:10,15,20;35:6; 38:13,14;43:12,12; 44:21,22;45:7,12; 48:15,16,17,21;49:11, 12;51:12,23;52:8; 118:3;121:3,21;123:9; 127:17,21;128:6,9,15; 135:20,20,21;149:19; 230:19;242:3;262:6; 267:15;268:5,9,22,24; 269:1,3,6,10,13,14; 270:10	Sunday (1) 271:9
sponsored (7) 19:12;36:16;37:9,23; 40:13,16,17	Star (1) 24:25	stipulations (1) 118:9	studio (1) 88:3	Sundquist (2) 214:16,24
sponsoring (1) 36:1	start (10) 10:10;25:18;31:12; 107:16;110:21;125:15; 153:6;161:2;162:2; 269:24	stop (5) 10:16;123:19; 162:14;201:19;274:8	study (12) 128:10;166:9,11,16; 169:12,19,22,24;170:7, 10;174:17,18	support (22) 36:9;54:12;58:23; 59:7;71:18;72:11,16; 93:3;111:11,17,25; 123:24;124:2;135:4; 242:24;243:21;253:20; 254:2;256:21;257:11; 258:1;262:21
sponsors (2) 35:21;38:5	started (5) 13:3;29:15;34:10; 152:10;199:13	stopped (3) 189:4;200:5;218:22	styles (1) 263:23	supported (9) 134:11;261:23,24; 272:1,12,15,17,19,22
sponsorship (4) 35:23,24;36:10; 207:5	starting (1) 187:12	storage (3) 151:12;155:1;172:15	subject (5) 108:22;138:8;187:9; 259:13,15	supporter (1) 112:24
sport (2) 30:24;32:15	starts (2) 42:8;127:5	story (1) 122:19	submissions (2) 94:9,11	supporters (3) 253:12,22;254:9
sporting (2) 127:25;263:12	state (8) 8:13;26:11;34:17; 65:16;116:3,14,20; 232:12	Stouder (3) 149:12;235:23; 236:14	submitted (10) 134:9;153:4;155:3; 185:18,20;186:3; 240:22;244:1;250:4;	supportive (1) 37:18
sports (43) 20:3,7,9,10,11,12,17, 18;22:9,11;26:17,19, 21,21;30:11,12,18,21; 31:1,3,3;34:6,25;37:8, 19,22;38:6,18,22;39:1, 5,13,24;40:8;41:6; 42:15;120:8,16,19; 221:2;263:5;265:6; 267:3	statement (11) 19:15;43:16;75:9; 82:21;128:13,14; 152:14;196:21;201:15; 219:1;260:2	Strange (6) 180:8,16;181:6; 217:5,10;218:12		supposed (2) 213:25;274:1
spot (1) 264:9	stated (7) 40:10;52:5;122:20; 157:18;182:3;275:14, 18	strategic (1) 149:24		sure (68) 10:14,19;12:4;16:14; 18:3;19:18;21:7;22:20; 23:1,10,21;26:16;27:4, 13;29:14,17;30:2,23; 33:6;34:9,12,23;39:11; 45:10,12;59:4;63:12; 68:18;69:18;78:1; 86:12;92:18;99:7; 107:7;108:15,16; 119:7;122:16;123:22; 128:15;130:19;133:12; 139:2;147:7;157:6,21; 158:3;159:4;176:14; 177:8;178:4;185:25; 186:4;190:14;194:15;
spring (4) 25:10;121:1;124:15; 134:25	statements (8) 69:24;117:16; 229:24;244:10;273:14; 274:9,11;275:11	strategy (2) 207:13;225:6		
St (1) 18:18	States (7) 8:9;37:13;44:13;	Straus (2) 13:21,22		
stadium (43) 24:9;26:7;27:25; 28:9;93:4,4;112:15,23;		Stream (3) 87:20,23;89:13		
		streamline (1) 101:4		

202:13;204:24;219:12; 224:23;228:16;230:19; 240:8;241:14;254:12; 259:24;260:19;271:21; 272:7	37:20 teachers (1) 14:10 teaching (1) 12:21 teachings (3) 19:25;36:22;37:1 team (29) 22:17;28:8,20;29:2; 31:6;32:7,10,21,25; 33:4;38:22;39:1;95:21; 98:14;99:2,19;126:20; 127:6,13;151:11; 154:25;157:16;167:24; 177:15;178:8,9; 191:15,23;268:7 teams (14) 14:11;20:18;38:18; 121:1;126:22;127:2; 144:17;149:20;220:22; 265:14;267:22;268:1, 3;271:19 technician (3) 173:12;174:13,15 technology (7) 125:2,17,22;126:3,6; 127:15;149:18 teens (1) 16:7 telling (5) 49:11;83:24;174:1; 186:12;274:22 temporary (12) 142:23;143:8,19; 144:6,7,9;145:7,17; 146:7;147:13,15;148:8 ten (7) 42:19,20;67:23; 126:8;252:19;253:7,14 tend (1) 266:5 tennis (2) 22:19,20 ten-year (2) 74:7;206:3 term (3) 16:7;20:17;230:21 terminate (1) 227:6 termination (3) 205:18;209:6;227:11 terminology (3) 150:19;216:19,21 terms (16) 117:1;119:21; 139:25;154:23;160:25; 161:5;170:16;185:6; 186:7;192:20;199:19; 200:12;234:8;244:18; 264:17;268:22 testified (2) 112:7;136:20 testified' (1)	113:16 testimony (7) 11:12;84:11;93:6; 136:19;137:6;267:23, 25 Thanks (5) 62:14;74:16;137:22; 156:11;161:13 theirs (1) 209:14 there! (1) 72:12 therefore (2) 181:11;190:3 thinking (3) 10:20;103:22;146:16 third (9) 25:4;50:17;73:19; 79:1;116:13;117:17; 120:22;151:5;172:6 Thomas (1) 110:24 though (8) 19:20;37:21;75:9; 115:17;118:19;131:11; 135:19;265:6 thought (15) 14:3;73:14;86:9; 130:16;144:9;155:23; 171:6;181:22;182:12, 23;231:21;232:12; 247:14;258:18;267:25 thoughts (1) 248:10 three (21) 15:19;18:20;25:14; 49:3;69:5;74:24;76:6; 89:11;107:13;140:22; 229:2;237:17;242:8, 11,22,23;244:13,13,23; 245:8,13 throughout (1) 97:22 thumbnail (1) 12:16 tick (1) 233:24 tie (1) 80:18 Tierney (8) 110:24;111:2,6,15, 24;113:23;114:3,25 Tim (6) 146:3,4;147:15; 189:20;275:13,13 timeframe (3) 16:24;199:18;225:11 timeline (1) 25:19 timer (1) 88:6 times (10) 28:16;45:13;79:12; 80:22;81:13;102:11; 155:14;189:14;193:19; 242:19 timing (3) 157:21;189:8;220:8 Timothy (1) 254:24 title (9) 15:7;104:12;116:19, 21,22;117:2;249:7,23; 275:20 today (10) 8:3;10:19;11:7,12; 34:21;48:16;114:23; 177:18;193:10;213:13 Today's (1) 8:4 together (8) 73:4;80:13;93:13; 102:10;139:19;199:17; 245:8;262:24 told (19) 102:13;165:13; 173:9,17;183:1; 185:17,19,21;186:19; 189:12;193:5;218:15; 224:14;225:9;233:4; 235:7;267:11,16,18 Tom (3) 60:21;111:24;113:12 tongue (1) 143:21 took (11) 13:13;15:5;67:1; 104:12;120:1;121:9; 186:5;220:8;256:1; 273:23;274:21 top (23) 41:13,17;50:14; 54:20,25;58:2;63:21; 66:4;71:24;78:6,12; 86:20;89:1;99:10; 110:4,22;113:9; 116:14;138:18;195:3; 200:23;211:12;223:24 topic (4) 117:12;158:7; 163:17;174:10 touch (1) 266:2 tough (2) 52:16;71:4 toward (2) 200:23;243:19 town (3) 14:21;15:1;128:11 towns (1) 265:13 track (47) 20:15,22,25;21:2,5,7, 11,14,19,21;22:13; 23:8,9;24:11;27:5,6,9, 17,17;30:25;32:24; 33:4;45:22;46:4; 117:24;118:12,21; 119:16;123:6,8,11,18, 20;126:1;128:23,23; 129:15,15;130:6,6,25; 131:7,24;132:7;133:1; 152:11;154:6 tracks (3) 215:6,12;216:6 traffic (3) 141:3;187:25;188:23 training (3) 14:15,17,19 transcript (1) 203:1 transition (1) 143:5 transitional (1) 13:16 transparency (1) 88:5 travel (4) 268:11,19,21;269:21 traveling (1) 268:9 treated (2) 91:25;131:23 trees (1) 62:13 trial (1) 275:11 trick (1) 158:8 tried (4) 91:5;193:17;264:4,5 tries (1) 143:24 triggered (1) 259:24 Trost (2) 258:14;260:3 trouble (3) 11:11;143:5;232:14 true (13) 19:3;69:25;70:19,20; 141:9;176:13;207:7; 228:22;231:20;241:23; 258:10;270:5;276:6 Trustees (9) 16:2,5,8,13;18:11; 110:9,11,16;259:14 truthful (3) 11:12;44:18;102:17 try (13) 10:16;29:14;71:11; 85:12;147:15;175:6; 197:12;232:16,24; 233:6,11,16;234:13 trying (31) 10:6;11:4;19:6; 51:22;59:20;60:20; 91:3,23,24;122:19; 136:22;147:19;150:20;		
T				
tab (1) 40:15 Tag (2) 231:13;261:22 Tag's (1) 235:4 TALASKE (6) 166:12,17,23; 167:11;170:7,14 talk (5) 10:15;17:5;140:17; 143:5;145:18 talked (13) 53:5;59:24;97:25; 114:22;122:7;124:23, 23;125:12;130:23; 157:22;177:19;232:8; 274:16 talking (12) 25:6;26:16;45:24; 61:2;87:2;107:2; 142:14;151:22;199:22; 225:7;228:25;232:3 Tanner (1) 8:24 Taylor (2) 94:15,17 teach (1)				

161:3;169:9;182:13; 193:24;202:9;220:1,9; 224:24;225:7,8;232:7; 233:3,7,10,15;269:14, 20;275:9 Tucker (39) 8:25;65:18;146:4,6; 148:8;156:15,18; 157:1,13;158:1,9,21; 159:1,8,16,24;160:8, 23;161:3;162:10; 163:13;164:4,10,17; 171:14;182:24;186:11; 187:10;188:5,9,14; 190:1,17;192:6,11,21; 193:7,14;194:2 Tucker's (1) 186:6 turf (3) 127:15;154:6;199:14 turn (32) 41:12;43:5;50:10; 57:21;66:7;67:17; 73:15,25;74:12;76:4; 78:6;79:1;82:10;84:23; 85:2;87:5;95:10;120:7; 125:5;133:15;134:14; 138:18;153:6;154:2; 155:5;167:6;170:9; 198:11;211:17;214:3; 249:20;253:25 turning (20) 25:4;57:25;68:13; 86:16;87:17;95:19; 124:3,8;134:18;150:3, 10;166:16;168:22; 172:3;180:22;205:7; 217:9;250:2,10,15 twice (1) 253:24 two (32) 25:14,23;28:16; 68:13;99:1;101:16,22; 103:9;105:23;106:16; 108:9;114:22;116:7; 123:21;124:9;147:20; 172:15;174:23;185:10, 17,19;186:1;188:1; 195:12;207:14;215:11; 216:6;235:16;240:3; 264:20;266:19,19 two-story (1) 261:10 two-year (2) 12:2;148:14 type (1) 19:6 typically (4) 28:4;40:15;270:3; 271:8 U	ugly (1) 171:7 ultimate (3) 30:24;32:13,21 ultimately (2) 135:7;147:2 umbrella (1) 245:14 unable (1) 266:12 unanimously (1) 203:17 unapproved (1) 198:1 uncertain (1) 240:24 uncommon (1) 233:19 under (21) 11:10;106:23; 108:11;150:6;151:8,9; 153:23;162:20;178:10; 183:21;190:2;191:21, 23;211:23;214:14,21; 245:5,6,14;249:7,23 undergo (1) 104:2 underneath (2) 117:6;126:1 understood (26) 11:4;57:1,2,11; 83:23;84:11;87:12; 104:13;121:11;128:21; 145:16;146:3;170:21; 173:17;178:19;181:15, 23;183:18;184:1; 206:10;210:8;212:6; 215:3,10,23;267:25 unfortunately (1) 274:6 United (1) 8:9 University (1) 11:16 unless (2) 144:16;263:9 unlimited (1) 233:6 unveil (2) 137:24;138:22 unveiled (1) 139:3 up (42) 25:1,23;34:10;36:20; 48:18;57:17;58:25; 59:8;60:1,3,13,19,25; 61:11;63:21;70:24; 80:18;95:1;114:9; 128:12;133:1,3; 141:11,18;143:24; 146:14;151:1,24; 156:9,19;188:17; 197:12;198:7;199:23;	200:20;201:12;208:5; 228:9;246:25;248:19; 256:1;273:1 update (4) 47:20,24;227:3; 230:7 Updated (4) 25:9;45:19;87:8; 154:6 updating (2) 117:23;118:12 upgrade (4) 117:3;119:15; 149:17;151:22 upgrades (3) 118:16;152:9;172:17 upon (1) 183:13 Upper (5) 11:16,23;12:10; 14:13;43:6 urban (1) 14:19 usable (1) 47:7 usage (13) 97:21;141:3;149:24; 156:21;157:1;168:19; 169:2;176:3;187:19, 25;188:11,15;199:16 use (108) 23:19,24;24:1;26:7; 27:8;34:15,24;43:5; 53:25;54:9;56:4,10,14, 22;57:5,14;58:1,24; 59:7,13,15;63:10; 64:13;70:19;73:7; 77:15;96:21,22;97:14; 105:13;118:4,21; 120:12;121:10;126:2, 2;132:9,25;141:9; 147:23;150:3;151:12; 153:10;155:6,6; 156:21;157:15;160:17; 162:20;163:2,3,4; 164:7;165:4,11,15,15, 20;167:24;175:25; 177:21;186:14;187:18; 188:10;190:2;191:5,9, 10,14,22;195:25; 197:13;198:22;199:9, 20;200:11;201:25; 217:22;220:2;221:21; 222:2,7,14;249:9,12, 24;250:2,17,23;251:7, 18;252:18;253:13; 255:2,17;256:2;258:7; 261:9,13,16,23;262:18; 264:20,21,24;270:25; 271:7,11 used (19) 20:16;89:5,15;95:21; 96:23;97:25;98:14;	99:2,19;117:7;118:2, 10;121:9;122:9;123:1; 170:2;177:10;210:19; 265:24 useful (1) 47:20 uses (16) 27:17;52:25;95:22; 96:5,12,18;97:11;98:8; 99:23;103:11;104:3; 164:13,15;251:3; 256:15;265:4 using (12) 23:22;30:4;71:6; 108:2;199:12,13; 220:24;221:2,7,12,16, 19 usual (1) 56:18 usually (5) 122:12,18;143:22; 210:25;263:5 Utah (1) 18:19 UW (1) 135:20 V Vague (31) 27:21;29:5;36:7; 37:25;46:10;57:16; 59:23;67:8;70:7;75:21; 81:15;90:1;96:16; 102:25;105:16;114:7, 22;119:6;142:5; 152:13;184:24;207:25; 215:17;219:10;224:6; 233:2;243:12;244:21; 247:19;272:6;273:10 value (3) 122:7;262:17;274:22 values (3) 251:4;256:15;263:1 Vanden (1) 55:10 Vandewalle (1) 173:16 Various (3) 29:21;81:13;230:15 varsity (4) 29:5;263:7;266:23, 23 varying (1) 258:2 vehemently (1) 124:10 vending (1) 268:14 venue (5) 32:22;33:5,9,10; 273:22 venues (6)	31:22;33:1;178:10; 198:13,17,22 verbal (4) 10:5;193:12;194:1; 275:2 verbally (1) 38:25 Verona (3) 23:4;53:8;126:24 version (4) 65:19;116:25; 120:12,15 versus (9) 8:8;107:11;119:25; 120:4;128:7;224:9; 244:19;252:18;253:13 viable (1) 50:25 videographer (4) 8:3;230:6;248:17,18 view (2) 144:6,13 viewed (1) 136:5 views (1) 233:20 Vilas (7) 70:12;72:10;134:10; 135:1;208:12;209:23; 271:25 violation (2) 164:24;196:8 visibility (1) 81:11 visible (1) 81:8 vision (2) 42:11,14 visit (1) 266:4 visited (1) 39:9 voice (1) 242:25 volleyball (1) 27:1 vote (18) 58:5,10;71:20; 207:11,12;212:6,24; 232:17,24;236:3,15; 245:25;246:13;247:3, 6;248:4;256:6,7 voted (17) 71:17;72:10,15; 210:9;216:7,8,13,24; 220:14;234:4,6,16; 246:4;247:8;248:23; 256:1;261:25 votes (1) 58:1 voting (3) 203:17;230:1;256:4
--	---	---	--	--

W			Y	
wait (2) 10:9,10	62:17;65:8;71:23; 93:16;100:6;110:3; 115:24;133:8;138:7; 139:17;142:11;149:10; 152:23;156:13;158:11; 161:23;163:9;168:9; 169:17;171:12;178:22; 186:25;196:15;197:18; 204:17;208:23;211:7; 217:1;223:19;226:19; 230:12;235:21;236:21; 238:21;241:4;247:17; 249:4;253:1,21; 254:20;255:14;267:3	122:24;177:13 Woodrow (2) 79:10;81:8 woods (2) 84:20;85:11 word (3) 122:2,2;245:10 word-for-word (1) 122:5 wording (1) 103:18 Words (6) 64:4;122:16,24,25; 123:3;232:10 work (18) 14:25;18:1,4;61:5; 71:11;82:1;105:21; 110:17;143:25;145:7; 187:21;188:2;199:3,5; 200:10;263:23;266:12; 274:7 workable (1) 242:10 worked (5) 14:21;73:3;102:9; 143:22;188:21 Workgroup (1) 197:20 working (14) 11:25;17:21;64:8; 101:3;134:24;149:22; 152:1;160:3,5;177:15; 182:12,14;254:12; 273:23 works (3) 94:18;143:24;234:8 worry (1) 10:16 write (5) 149:16;187:24; 236:1;253:6;254:2 writes (12) 101:7;113:11; 162:24;168:18;180:16; 24;181:6;183:7; 217:10,11,16;231:1 writing (7) 38:20,23;102:10; 162:8,15;193:6;227:21 written (6) 37:3;44:1,5;104:10; 153:25;275:2 wrong (7) 19:23;35:18;112:16; 25;132:6;216:18; 275:14 wrote (9) 19:22;94:25;111:15; 179:5;195:6;232:10; 247:25;248:10;258:1 wwwSinsinawaorg (1) 40:22	yards (2) 90:8,8 year (19) 11:24;12:4;21:8,24; 22:1,2;28:14,16;43:12; 45:13;48:25;49:10; 126:7;148:11;152:3; 153:11;199:5;210:25; 234:2 years (24) 12:1;13:8,20,21; 16:14;21:18,20,22; 28:12;42:19;49:3;53:3; 59:21;121:17;123:12; 126:8,8;141:15; 154:15;158:15;172:15; 189:13;266:1;272:1 yes-or-no (1) 228:14 yesterday (1) 227:4 youth (1) 123:18	183:24;193:25;194:15; 195:20;196:13;202:20; 208:20,22;226:18; 235:15,19;238:19; 240:14;247:16,21; 248:14;270:11;276:9
walk (4) 264:1,1;273:19; 274:13	whenever (1) 156:5 wherever (2) 127:21;128:17 whoever's (1) 80:21 whole (7) 37:13;40:14;111:16; 199:23;200:4;219:25; 274:1 whose (1) 80:17 wild (1) 146:15 willing (1) 263:11 wing (1) 107:5 Wingra (5) 84:20;85:20;86:1,5, 14	work (18) 14:25;18:1,4;61:5; 71:11;82:1;105:21; 110:17;143:25;145:7; 187:21;188:2;199:3,5; 200:10;263:23;266:12; 274:7 workable (1) 242:10 worked (5) 14:21;73:3;102:9; 143:22;188:21 Workgroup (1) 197:20 working (14) 11:25;17:21;64:8; 101:3;134:24;149:22; 152:1;160:3,5;177:15; 182:12,14;254:12; 273:23 works (3) 94:18;143:24;234:8 worry (1) 10:16 write (5) 149:16;187:24; 236:1;253:6;254:2 writes (12) 101:7;113:11; 162:24;168:18;180:16; 24;181:6;183:7; 217:10,11,16;231:1 writing (7) 38:20,23;102:10; 162:8,15;193:6;227:21 written (6) 37:3;44:1,5;104:10; 153:25;275:2 wrong (7) 19:23;35:18;112:16; 25;132:6;216:18; 275:14 wrote (9) 19:22;94:25;111:15; 179:5;195:6;232:10; 247:25;248:10;258:1 wwwSinsinawaorg (1) 40:22	Y	1
warn (1) 19:17 Warner (3) 29:21,25;30:3 warnings (1) 195:24 watch (1) 266:25 watching (1) 268:5 Wautier (13) 173:24;174:10; 178:25;179:4,8,15,18; 180:9;183:7;184:1,11; 203:8,12 Wautier's (3) 183:19,21;184:6 way (19) 14:4;53:24;99:7; 116:1;119:10;135:12; 136:2,12;144:1;163:1; 165:23;182:9;184:15; 190:7;232:24;262:6; 273:16;274:3;275:6 ways (4) 52:6;264:4;265:1,3 web (2) 40:21,22 website (9) 39:10,12,21;40:14, 19,20,23;45:14,15 Wednesday (1) 159:18 week (5) 146:24,25;156:20; 157:1,20 weekend (1) 190:24 weeks (2) 25:23;201:12 welcome (1) 112:17 well-founded (1) 112:1 weren't (6) 80:11;132:19;151:2; 192:18;199:22;200:6 West (11) 52:10,13,18,25;53:2; 79:10;87:20;88:2; 89:17;199:2;200:16 Western (1) 8:10 what's (45) 24:19;39:18;42:21;	whenever (1) 156:5 wherever (2) 127:21;128:17 whoever's (1) 80:21 whole (7) 37:13;40:14;111:16; 199:23;200:4;219:25; 274:1 whose (1) 80:17 wild (1) 146:15 willing (1) 263:11 wing (1) 107:5 Wingra (5) 84:20;85:20;86:1,5, 14 wipe (1) 235:6 wiring (1) 125:15 Wisconsin (6) 8:4,9,10;116:3,14,20 Wise (2) 169:24;170:3 wishes (1) 164:25 withdrew (3) 207:5;224:25;263:19 within (2) 33:5;88:2 without (19) 102:19;129:18,22; 130:7,20;131:12; 160:24;176:22;190:9; 19;220:18,20;227:6; 249:10;250:23;251:14; 255:4;265:9;271:13 witness (4) 8:15;17:4,6;148:21 wold (1) 216:18 women's (2) 31:6,7 wondering (2)	work (18) 14:25;18:1,4;61:5; 71:11;82:1;105:21; 110:17;143:25;145:7; 187:21;188:2;199:3,5; 200:10;263:23;266:12; 274:7 workable (1) 242:10 worked (5) 14:21;73:3;102:9; 143:22;188:21 Workgroup (1) 197:20 working (14) 11:25;17:21;64:8; 101:3;134:24;149:22; 152:1;160:3,5;177:15; 182:12,14;254:12; 273:23 works (3) 94:18;143:24;234:8 worry (1) 10:16 write (5) 149:16;187:24; 236:1;253:6;254:2 writes (12) 101:7;113:11; 162:24;168:18;180:16; 24;181:6;183:7; 217:10,11,16;231:1 writing (7) 38:20,23;102:10; 162:8,15;193:6;227:21 written (6) 37:3;44:1,5;104:10; 153:25;275:2 wrong (7) 19:23;35:18;112:16; 25;132:6;216:18; 275:14 wrote (9) 19:22;94:25;111:15; 179:5;195:6;232:10; 247:25;248:10;258:1 wwwSinsinawaorg (1) 40:22	Y	1 (17) 13:14;15:6;58:10,18; 66:5;67:19;77:18;88:5; 95:19;98:20;99:16,22; 108:2;116:18;196:23; 198:13,17 1:00 (2) 109:1,2 1:04 (1) 109:10 10 (14) 8:5;43:18;44:22; 50:12;58:5,17;67:17; 100:9;138:10;170:9; 214:4,15,21;236:1 10.085 (1) 191:21 10:06 (1) 50:5 10:22 (1) 50:8 10:46 (1) 64:25 10:49 (1) 65:7 100 (1) 158:15 11 (10) 13:21;42:23;108:5; 195:14;197:8;202:15; 203:1;236:16;250:7,18 11:36 (1) 92:20 11:51 (1) 92:23 11a (1) 108:5 11b (2) 108:5,8 12 (12) 41:20;51:13;68:13; 108:5,8;178:25; 204:18,21;205:14,22; 231:1,17 12:17 (2) 108:22;109:5 13 (6) 13:14;41:13,15; 134:12;249:8;254:22 1-3 (1) 94:15 1308 (1) 155:7 14 (18)
			Z	
			Zander (1) 13:3 zone (3) 84:18;85:10,23 zoned (2) 212:19;237:15 zones (1) 83:18 zoning (30) 53:17,22;61:14,24, 25;62:8;67:24;101:9; 181:8;183:14;196:25; 202:1,14;203:11,14,16, 18,24;204:8;212:16; 214:8,17,25;215:5,24; 217:13,25;231:19; 232:18;237:13 Zooming (1) 202:10 Zwettler (2) 126:15;257:6 Zylstra (66) 8:23,23;41:21,24; 46:12,17,19;47:1;48:7; 49:25;50:3;62:12;63:5, 10,14,17,20,24;64:2,6, 11,22;78:1,10;92:18; 93:20;103:2;108:21, 25;109:3;110:2; 114:15;116:21,24; 132:18;138:5;139:15; 144:24;145:3;156:7, 12;161:11;166:3,5; 168:5,8;174:7,12;	

42:24;54:21;82:11, 23;83:2,13;120:4; 150:13;162:2;209:18; 211:18;226:5;229:5, 17;234:18,22;236:4,11	43:18;44:21 2009-2010 (1) 43:13 2010 (2) 43:1;48:14 2013 (33) 13:9,12,13,18;15:4, 24;16:5;43:18;53:14, 18,22;54:1;61:15;70:3, 10,16;73:8;78:23;87:9; 90:13,18,24;91:2,12, 15;92:7;93:1,23;94:12; 100:10;103:3,25; 106:19 2014 (17) 54:3;66:10;71:18; 72:7;119:25;120:2,5; 133:17;153:12;190:10, 20;191:13;195:4; 206:8,11;213:24;238:5 2015 (27) 21:11,15;29:13; 42:24;43:23;44:8,22, 25;46:2;48:15,15;49:8, 10,21;68:15;116:4,14; 119:25;124:19;125:19; 126:5;134:25;152:9; 154:6,11,20;214:1 2016 (9) 133:10;138:10,22; 139:8,8,25;140:14,20; 141:15 2017 (8) 49:5,8,12,21;186:12; 187:5;188:6;190:7 2018 (26) 110:6,25;111:7; 114:15,18;115:11; 145:17;147:6;148:10, 12,23;150:13;155:3; 156:16;159:2;160:18; 162:3,18;163:13; 165:3;167:22,25; 168:19,24;169:3,7 2019 (84) 25:1;26:2;148:10,12; 153:10;168:16;171:15, 18,22;172:25;173:6; 176:17;177:9;178:25; 180:2,9;181:17,20,24; 182:10;185:23;196:17, 23,23,24;197:20; 202:15;203:1;204:21; 205:10,15;206:21; 207:18;209:19;210:8; 211:11;212:1,5,9,22; 214:18;215:1,3,7,14, 21;216:5;217:5; 219:21;220:15;221:3, 8,13,17,19,22,23; 222:10,10,15,20;223:4, 25;224:22;225:4,14, 18;226:3,5,11,20;	231:1,18;232:16; 237:4;239:20;240:5, 20;243:18;245:23; 258:14,17,19;259:8 2020 (10) 148:10;246:8,13,23; 248:1;250:7,18;253:3; 254:22;255:21 2021 (3) 256:2;257:6;261:5 2022 (2) 8:5;276:3 2025 (1) 214:1 21 (2) 180:9;206:21 215 (1) 68:1 21-cv-00118 (1) 8:11 22 (12) 66:10;74:1,6;75:16; 76:5;77:18;108:2,16; 171:18;205:3;240:18; 259:8 2219 (1) 249:7 222 (1) 108:3 228 (21) 66:5,7;67:18;68:13; 73:15;74:14,15;76:4; 78:7,10;79:1;82:10; 83:1;84:10;85:2,6; 86:16;87:5;99:13; 107:16;108:17 22nd (1) 258:18 23 (2) 13:20;72:7 24 (1) 217:2 25 (5) 211:8;223:25; 258:14,17,19 26 (11) 56:15;156:16; 207:18;211:11;212:5; 215:3,21;217:5; 225:14;237:9,21 27 (5) 148:23;171:15; 186:7;190:8,15 28 (4) 74:13;234:22;236:9; 237:4 28.09710 (1) 181:2 29 (2) 205:10;261:5	3 (18) 120:14,20;166:16; 167:7,10,16;198:11,19, 20;199:25;200:23; 217:17;226:3,11; 227:4;228:6,13,18 3,000 (1) 210:24 3.2 (1) 73:17 3.6 (1) 86:17 3.8 (1) 157:15 3:26 (1) 194:19 3:37 (1) 194:24 30 (3) 74:18;197:20;239:20 300 (1) 58:7 31 (4) 84:23;85:2,6;196:17 3232 (1) 170:10 3563 (1) 163:22 36 (3) 73:15;107:16;108:3 37 (1) 51:13 38 (3) 74:12;107:16;108:3 39 (2) 76:4;108:17	39:16,19;85:1
			4	5
2			4 (8) 57:21;87:18;167:7; 168:15;180:22;214:4, 21;253:3 4.3 (1) 87:6 4:30 (1) 269:24 40 (4) 63:1,13,15,19 41 (1) 248:18 450 (1) 147:21 47 (2) 78:7,10 470 (4) 48:20,23;49:2,12 48 (5) 24:17,20;79:1;81:6; 230:10 488 (2) 45:15,16 49 (3)	5 (13) 57:25;93:23;133:17; 142:22;143:6,18; 146:11;147:3,12; 153:7;195:4;226:20; 243:18 5:36 (1) 270:14 5:42 (1) 270:19 5:50 (2) 276:14,15 50 (5) 40:3;42:22,22;50:9; 189:12 51 (2) 54:16,18 52 (5) 65:4,9,22;83:1;99:14 520 (2) 45:11;48:17 53 (3) 51:2;71:21,24 530 (3) 45:11;48:17,21 539 (5) 43:12,18;44:22; 48:16;49:11 54 (7) 82:10;83:11;93:10, 16,19,22;99:21 55 (4) 83:11;84:10;100:4,7 56 (7) 83:11,21;109:7; 110:1,2,4,23 56981 (1) 212:17 56ers (1) 271:11 57 (4) 86:16;115:22,25; 116:19 58 (3) 86:20;133:6,9 59 (3) 138:3,5,8
2 (16) 54:25;66:5;120:7,10, 11;142:7;157:12; 167:7,10,16;169:23; 183:8,9;190:18;205:7; 242:6 2:21 (1) 161:15 2:32 (1) 161:20 20 (7) 75:23;76:8,13,18; 77:5;163:12;196:24 2001 (2) 16:16,25 2006 (1) 137:23 2007 (1) 16:16 2008 (2) 114:9,14 2009 (2)				6
		3		6 (15) 66:7;68:15;120:14, 20;162:18;167:25; 169:6;171:14;175:4,7; 190:12,13,16;240:10, 16 6

61 (3) 142:9,12;149:3				
62 (5) 149:8,11;150:15; 154:23;155:5	8			
63 (2) 152:21,24	8 (2) 77:6;248:1			
64 (3) 156:2,14;162:10	8:51 (1) 231:2			
65 (3) 161:21,24;162:1	80 (2) 230:8,13			
658 (3) 43:12;44:21;48:15	8071 (1) 250:16			
66 (3) 163:7,10;166:3	8074 (1) 249:21			
67 (5) 166:1,4,5,11;170:7	8077 (1) 250:10			
68 (2) 168:3,10	80-foot (1) 250:12			
68.5 (1) 166:18	81 (3) 235:17,20,22			
68-foot (1) 250:13	82 (3) 235:17,20;236:13			
69 (2) 169:15,18	83 (3) 236:19,22,25			
6th (1) 167:22	84 (3) 238:17,21;239:19			
7	85 (2) 241:2,5			
7 (21) 62:14,18,23;63:4,15; 64:19,20;65:10,13,17, 21;85:14,19,21;86:2, 20;87:2;159:18;187:5; 211:17;246:8	86 (3) 247:22,24;248:14			
70 (8) 178:20,23;183:3,4,5, 5,8,9	87 (2) 249:2,5			
71 (4) 180:4,6;184:11,17	88 (2) 252:24;253:2			
72 (2) 186:23;187:1	89 (2) 254:18,21			
72.5 (1) 166:19	9			
73 (3) 43:7;194:11;195:1	9 (10) 25:1;50:12;58:5; 110:6,25;111:7; 195:13;197:8;245:22, 25			
74 (3) 196:10,12,16	9:00 (1) 8:5			
75 (2) 197:16,19	90 (2) 255:12,15			
75.8 (1) 166:18	91 (2) 256:24;257:4			
76 (2) 202:6,21	92 (2) 258:11,13			
77 (5) 87:5;208:18,20,24; 209:2	93 (2) 260:22,24			
78 (3) 223:17,20,23	94 (2) 270:16;275:20			
79 (4) 12:11;226:15,17,19	96 (1) 60:8			